

SB 1060 - Signed Testimony.pdf

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Position: FAV

ARTHUR ELLIS, CPA
Legislative District 28
Charles County

DEPUTY MAJORITY LEADER

Finance Committee

Senate Chair

Joint Committee on the
Management of Public Funds

Chair, Charles, St. Mary's and Calvert
Counties' Senate Delegation



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March 13, 2024

Testimony of Senator Arthur Ellis in Support of Senate Bill 1060: Railroads – Safety Requirements (Maryland Railway Safety Act of 2024)

Dear Chair Beidle, Vice Chair Klausmeier, and members of the Finance Committee:

The purpose of Senate Bill 1060 is to establish requirements and prohibitions related to the operation of railroads in the State, including provisions related to the size of the crew, the blocking of highway grade crossings, wayside detectors, and investigations by railroad labor union representatives; and requires the Commission of Labor and Industry to establish and maintain a database regarding the transportation of hazardous materials and waste by rail in the State.

I urge your favorable report on Senate Bill 1060.

Yours in Service,


Arthur Ellis – District 28

SB1060_Maryland_Railway_Safety_Act_of_2024_MLC_FAV

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB1060 Maryland Railway Safety Act of 2024

Bill Sponsor: Senators Ellis and Augustine
Committee: Finance
Organization Submitting: Maryland Legislative Coalition
Person Submitting: Aileen Alex, co-chair
Position: FAVORABLE

I am submitting this testimony in favor of SB1060 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

There have been too many train accidents involving hazardous materials in the country. Maryland is not immune. In 2013, a collision between a truck and a train in Rosedale, a suburb of Baltimore(!), led to a dangerous leak of sodium chlorate and terephthalic acid. These volatile substances combined and resulted in an explosion within minutes. The consequences of such hazardous materials accidents are devastating, emphasizing the importance of safety measures and vigilance when it comes to transportation of dangerous chemicals.

By implementing the Maryland Railway Safety Act of 2024, we are promoting safety while protecting workers' rights and enhancing environmental stewardship in the railroad industry. This Act specifies that trains are to have at least 2 crew members and the state is to maintain a database tracking Hazardous Materials and Waste Transportation. In addition, investigations by representatives of railroad labor unions are allowed, ensuring transparency and accountability in labor-related matters.

Because of our geographic desirability, Maryland has always been a thoroughfare for trains. It's one of the reasons so many Civil War battles were fought here. Like many Marylanders, I am less than half a mile from an important rail crossing. I can hear the trains, so I must surely be within range of a cataclysmic accident. I need to know that Maryland is tracking hazardous material moved by rail and that at least 2 crew members are onboard in case of emergencies.

These steps are needed to increase Maryland railway safety.

Our Coalition supports this bill and recommends a **FAVORABLE** report in committee.

SB1060 Written Testimony.pdf

Uploaded by: Larry Kasecamp

Position: FAV

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March 14, 2024

The Honorable Chair Pam Beidle and
Members of the Senate Finance Committee

REPRESENTATIVES

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BRUNSWICK
Local 631
TOM CAHILL

EDMONSTON
Local 1470
DAVID PENDLETON SR.

BALTIMORE
Local 610
JOHN WALKER

Local 1949
JACOB STROMAN

RE: SUPPORT SB1060

I'm the Maryland Legislative Director for the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Worker's (SMART). We are the largest rail labor union in North America. Our members in Maryland are employees of CSX, Norfolk Southern Railway, Amtrak, Bombardier (MARC Service) and the Canton Railroad and work as conductors, engineers, switchmen, trainmen, utility persons and yardmasters. Our members operate freight and passenger trains that travel throughout the State. SMART represents over 216,000 members throughout the country.

My position as Legislative Director within our organization is first and foremost to seek to ensure our members have a safe work environment.

In that vein, I ask for your support for the rail safety legislation introduced in the House as **SB1060 "Railroads – Safety Requirements (Maryland Railway Safety Act of 2024)"**. This proactive rail safety legislation is intended to address several areas related to the safe operations of railroads in the State of Maryland. I will address each provision as follows.

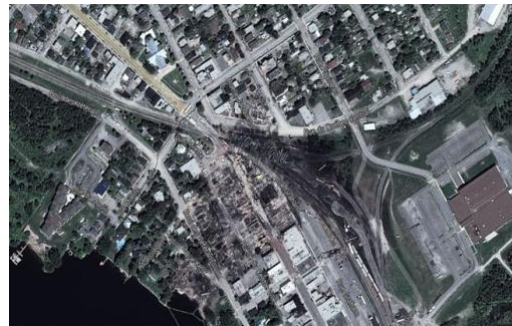
Minimum freight crew requirement:

I hired on the B&O Railroad in 1977 and hold seniority as a freight Conductor with CSX Transportation for 47 years now. In 1977, each freight train had 4 to 5 crewmembers. Through advances in technologies, that number has been reduced. Today, the reality is over 99% of America's freight trains operate with two federally certified and licensed crewmembers: A Conductor and Engineer.

Several things happened that gave rise to the pursuit of this provision of the legislation. On July 6, 2013, a freight train derailed in Lac-Mégantic, Quebec that resulted in 47 lost lives and a town nearly destroyed. That accident happened because a Montreal, Maine & Atlantic Railway crewmember, working alone, had his 72-car crude oil train roll away and crash in the middle of a town causing horrific death and devastation.

There are many tasks that must be performed by the crewmembers on a freight train every day that one person just cannot accomplish alone, and this fact played a major role in the Lac- Mégantic tragedy. The train was left standing unattended on a steep grade several miles outside the town because that was the only stretch of track that could accommodate the entire train without blocking any highway grade crossings.

The train could have been secured and left unattended on flat terrain much closer to the town after having been separated, or “cut,” to keep the crossing open, but that task cannot be accomplished safely and in compliance with operating rules with a single crew member. Also, attempting to both secure the train with hand brakes and properly test the securement cannot be accomplished as safe operating standards dictate. The securement of the train failed, and the result was that the train traversed down the steep grade into the center of town where it eventually derailed resulting in explosions and fires killing 47 persons and causing millions of dollars in environmental damage.



Following this tragic accident, Canadian regulators banned this type of one-person operations throughout Canada.

On March 4, 1996, in Weyauwega, Wisconsin the town had to be evacuated due to a train derailment containing hazardous materials. 30 cars derailed containing liquid petroleum, and sodium hydroxide. The fire spread quickly, and the fire department’s chief concern was that the train would explode.



Within 45 minutes they determined that the town’s 2200 residents had to be evacuated. The residents had only 5 minutes notice to immediately vacate their homes and had to leave everything they had behind.

This wasn’t an orderly evacuation. Imagine being in your home with your family and having a firefighter in front of your house with a bull horn yelling evacuate now. People didn’t know where to go, didn’t know when they’d return, nor could they ask questions about what was going on. The fire burnt for over two weeks.

Following this tragic derailment, the state of Wisconsin passed a minimum 2-person crew requirement.

There have been several attempts to regulate crew size at the federal level through the Federal Railroad Administration rulemaking process. In 2008 the Obama administration initiated the rulemaking process. In 2016 the Trump administration cancelled the rulemaking process. In 2021 the Biden administration reinstated the rulemaking process to regulate crew size. No regulation has been issued to date.

This rail safety legislation has also been introduced in 34 states and has become law or regulation in Arizona, California, Colorado, Illinois, Kansas, Minnesota, New York, Nevada, Ohio, Washington, West Virginia, and Wisconsin.

Freight train crews work long hours, day and night, with few set shifts, and are on call 24 hours 7 days a week. With as little as 1 hour and 15 minutes notice, they are required to report to work for a 12-hour shift, often operating trains laden with hazardous materials. Fatigue in the freight railroad industry is our organizations number one safety concern and having a minimum of two crewmembers is the primary way we help combat fatigue. Having a minimum of two crewmembers also is the best way to assure compliance with the railroads complex operating rules.

Some of you will remember the 1996 head-on collision of a MARC commuter train and an Amtrak passenger train that occurred in Silver Spring, Maryland in which 11 persons were killed and 13 injured.



Following a lengthy investigation, the FRA found that a one-person crew in the locomotive contributed to signal violations associated with the collision and issued an Emergency Order and subsequent safety regulations requiring communications between the operating cab and the train crew stationed in the passenger cars. As a result, commuter passenger trains today routinely have a crew of three qualified people on the crew who must work as a team with constant communication between the crew members and qualifications for emergency response and first responder training.

The SMART-TD Maryland State Legislative Board contracted a reputable consulting firm to gauge the level of support by the public for such minimum crew legislation. We wanted to see where the public stood in relation to the Governor, since the General Assembly was on opposite ends. The survey covered several demographic groupings with results separated based on gender, age, education, political self-identification, and geographic region. I'll just point out that the overall results of the survey are that the level of public support by Marylanders for this legislation is 88%. This survey is a part of the previous record on this legislation.

There is an increase in the transportation of hazardous and volatile materials on the railroads as well as significantly longer trains operating over the unique and widely varying geographical terrain existing in our state. This coupled with the possibility of decreasing train crew size, creates a significant localized safety hazard to the employees, the public, the communities, and the environment.

Adequate personnel are critical to insuring railroad operational safety, security, and in the event of a hazardous material incident, support of first responder activities. This legislation regulating minimum railroad crew staffing is a proactive effort to protect and promote worker health and safety, and the security and welfare of the residents of the state by reducing the risk exposure to local communities and protecting environmentally sensitive lands and waterways.

The recent freight train derailment that occurred in East Palestine, Ohio where a freight train carrying hazardous materials derailed, caught fire, and caused the evacuation of the community stands as a reminder of the current potential for disaster.



To allow these monstrous freight trains carrying many hazardous materials to operate through the State with one, or no crew members would be reckless.

Following this tragic accident, the state of Ohio passed a minimum 2-person crew requirement.

I am sure you have been approached by the railroads who are opposed to this legislation. I want to address some of their arguments against this legislation. Their first argument is that this legislation is preempted by federal law. We do not argue that there are many provisions in federal law covering a wide range of issues that are preempted from state regulation; however, crew member requirements on freight trains are not one of them.

Attached are three letters from the MD Attorney General's office wherein the first letter they reference this legislation and write "*appears to neither violate, nor is preempted by, federal law as it relates to crew member requirements for trains used in connection with the movement of freight in the State.*" In the follow up letter, which was requested by the railroads representatives the AG's office wrote "*if a sufficient legislative record is established to demonstrate that the minimum crew size requirements under the bill are primarily related to safety and will not interfere with rail transportation, a court is unlikely to find that the requirement is preempted under the ICCTA. On the other hand, without such evidence, a court may conclude that the minimum crew size requirement regulates rail transportation and operation*

in the State, which may be preempted under the ICCTA,” thereby leaving the door open for interpretation. The 3rd letter was just recently issued on February 13, 2023 wherein they Attorney General’s office again reiterated in their view *“For the foregoing reasons..... the holding in the Indiana R.R. II case does not alter the analysis and conclusion regarding the possibility of either 3RA preemption or FRSA authorization for state rail crew size as addressed in the Feldman Letter.”*

The AG’s first opinion is reinforced by the Seventh District Court’s decision rendered in *Burlington Northern and Santa Fe Railway Co. v. Doyle* which examined the Wisconsin law that required a minimum of two persons on freight trains. The court ruled that Wisconsin was “free to require two-person crews on over-the-road operations.” This finding by the 7th District Court rendered in 1999 has not been challenged by the railroads.

They also attempt to use Section 711 of the Regional Rail Reorganization Act of 1973 (3R Act) stating that “Congress expressly intended to preempt state minimum crew laws.” Again, we agree that in 1973 Congress did intend to preempt 17 states and the District of Columbia from regulating minimum crew laws. However, this decision was rendered at a time when there were 4 or 5 crew members on each freight train, and it was not for the purpose of denying States the ability to provide for the safety of their towns, communities, and citizens. Congress was attempting to protect the Midwest and Northeast regions from financial collapse related to a disappearance of rail service as seven Class I railroads were in bankruptcy. As a result, they created the federally government owed Consolidated Rail Corporation known as Conrail.

They did afford the provisions of the preemption to the other railroads operating in the 17 states and the District of Columbia due to the potential for unfair competition in the states they all served. Their main concern in creating this provision was their fiduciary responsibility to the taxpayers. In 1998, Conrail was absolved through the purchase of their assets by CSX and Norfolk Southern Railway and is no longer a potential liability to the taxpayers.

On the issue of preemption, the critical question in any preemption analysis is always whether Congress intended that a federal regulation supersedes state law. In the case of *Louisiana Public Service Commission v. FCC* the court wrote:

“Pre-emption occurs when Congress, in enacting a federal statute, expresses a clear intent to preempt state law, when there is outright or actual conflict between federal and state law, where compliance with both federal and state law is in effect physically impossible . . . or where the state law stands as an obstacle to the accomplishment and execution of the full objectives of Congress.

Moreover, the Supreme Court has also made it clear that “[p]re-emption may result not only from action taken by Congress itself; a federal agency acting within the scope of its congressionally delegated authority may preempt state regulation.”

So, the key to the argument that Section 711 of the 3R Act was intended to “expresses a clear intent to preempt state law” would be based on the record as to why Congress passed a federal statute and to what it applies. We take no exception to the fact that Congress had a clear intent to preempt state law within the 17 states that Conrail operated in. What we do take exception to is that that law is still applicable.

The record clearly shows that Congress was attempting to protect the Midwest and Northeast regions (17 States) from financial collapse related to a disappearance of rail service as seven Class I railroads were in bankruptcy. They were not passing a law to preempt crew size throughout the United States. They limited the laws reach to these 17 States to level the playing field against Conrail, the taxpayer owned railroad.

Congress placed Conrail back into the hands of the private sector through the sale of their assets. However, the obvious advantage the railroads operating in this limited 17 state area had over the rest of the railroads in the country, where the preemption did not apply, still existed. In response, Congress passed into law Section 408 of the Rail Safety Improvement Act that required the Department of Transportation (DOT) to complete a study regarding the impacts of repealing Section 711 of the 3R Act.

The DOT delegated this duty to the Federal Railroad Administration (FRA), the agency that Congress gave the jurisdiction over railroad safety to when they established it. The FRA completed the study and reported back to the Congress that ***“the goal of protecting the Midwest and Northeast regions from financial collapse related to a disappearance of rail service has been met. The rationale behind the preemption provision in the 3R Act of ensuring viable freight rail service no longer exists. Repealing Section 711 would restore the status quo that existed prior to its enactment and create a level playing field among rail carriers nationwide.”*** They concluded with ***“For the above stated reasons.....the purpose for which Section 711 was enacted was met a number of years ago and Section 711 should be repealed.”***

This report was issued by the FRA, the federal agency assigned by Congress with the responsibilities of overseeing safety in the rail industry. The effect of their report is that all railroads are on a level playing field nationwide.

The issue of preemption related to the states that were not within the 17-state limit has been settled. The U.S. Seventh District Court found in the *Burlington Northern and Santa Fe Railway Company v. Doyle* that the state of Wisconsin was ***“free to require two-person crews on over-the-road operations.”*** This settled law will govern the country until the FRA decides to affirmatively regulate such operations as minimum crew size, which they have not done.

The railroads claim that requiring a minimum of two persons on their freight trains will be a major inconvenience and break the bank. We find this argument hypocritical. On one hand they argue to maintain the outdated special treatment contained in Section 711, which gives them an unfair advantage over the 2/3 of the United States where the exemption didn't apply, and then argue they would be at a disadvantage if the same situation existed between Maryland and other states where they operate. In addition, the delay argument has no merit as crew changes already must occur over the routes and there is no additional cost for a second crew member if they board the freight train at the last regular crew change point before entering Maryland or at the border. So, no operational delay would be required.

We as an organization are cognizant of the fact the railroads are in business to make money for their owners and stockholders and we want them to secure more business and be as profitable as possible. After all, our member's jobs depend on their success. But when it comes down to the wellbeing, health, and safety of the members we represent and the safety of the public, we will always side with safety.

Another argument we have heard is that this is a collective bargaining issue and legislators should not be injected into the fray between labor and management. To the contrary, we believe this issue falls under the purview of employee and public safety, which places it under the jurisdiction of the legislative department within our organization. Our legislative department will not relinquish our responsibilities to provide for the safety and well-being of our members to collective bargaining. There is no amount of money or benefits worth any harm that may come to our members or the public if a tragic accident should occur because of insufficient manpower.

In 2008 Congress passed the Rail Safety Improvement Act, which we have been in support of, that required Positive Train Control's (PTC) implementation nationwide by 2015. The railroads had repeatedly requested delays in implementing this supplemental safety technology with full implementation just being completed in December 2020. The railroads now try to present this technology as their replacement for the second crew member.

On January 20, 2023, MARC had to cancel forty-one trains because of connectivity issues with PTC. While this was an inconvenience to thousands of Maryland commuters, fortunately no one was hurt because the trains were able to be canceled. Imagine this happening to a freight train loaded with hazardous material operating through Baltimore with one person.

Positive Train Control, or hot box detectors, or Deadman's pedal or the myriad of other supplemental safety apparatus will not prevent every accident in the railroad industry. Each merely complements the

other in making the industry safer, as does two persons on each crew. A single crewmember cannot perform all the tasks required of them and maintain the highest level of safety and respond to any emergency they may encounter.

15-year BNSF conductor Mike Rankin shared his harrowing story of how two freight rail crewmembers worked together to save someone's life — a feat that would have been impossible had just one person been operating their train the fateful night of December 23, 2004.

When the train Conductor Rankin and his colleague were operating hit a car that bypassed crossing gates, all three passengers in the vehicle were ejected. Two died instantly. The third, barely alive, needed immediate medical attention. An ambulance was on the way, but Rankin soon realized the ambulance was on the wrong side of the tracks. The only solution was to separate the train at the crossing, so the ambulance could drive through — a maneuver that requires two people to execute.

“There's no way a single crew member could have secured the train, briefed emergency personnel, uncoupled train cars and moved the front of the train forward all on his or her own,” Conductor Rankin said. *“I've seen enough to know that those who want one-crew train operations are not fully grasping the risks, emergencies, and close calls that my fellow conductors and engineers see on the rails regularly. Conductors and engineers don't just operate trains. In emergency situations, our presence and teamwork can mean the difference between life and death.”*

Another instance occurred when an engineer fell ill on their train in route to Cumberland, MD. They had to stop the train as the engineer was in severe pain and losing consciousness. The conductor summoned an ambulance via cell phone and was able to guide them to the rural location of the train since there was no physical address for GPS to work from. They transported the engineer to the nearest hospital where he underwent immediate surgery for acute appendicitis. The Doctor told the engineer he was close to having his appendix burst which may have resulted in his death had he not received the prompt attention to his condition. As you can imagine, he was extremely grateful for the conductor's presence and quick-thinking action.

The merits of the 2-person minimum crew provision of this legislation have been thoroughly debated over the last several years. Each time receiving a favorable report by the respective committees it went before. This provision has been passed by this committee 6 times and has passed the General Assembly 2 times, each time with overwhelming support. Unfortunately, it was vetoed each time by the previous Governor.

The arguments noted in the governor's veto letter were the same arguments offered in committees and on the House and Senate floor prior to passage. The public saw through those arguments as reflected in the survey; our members saw through those arguments as reflected in their ratification votes, and the General Assembly saw through those arguments and passed the legislation on multiple occasions with a bipartisan overwhelming vote.

Reporting requirements for transporting hazardous materials:

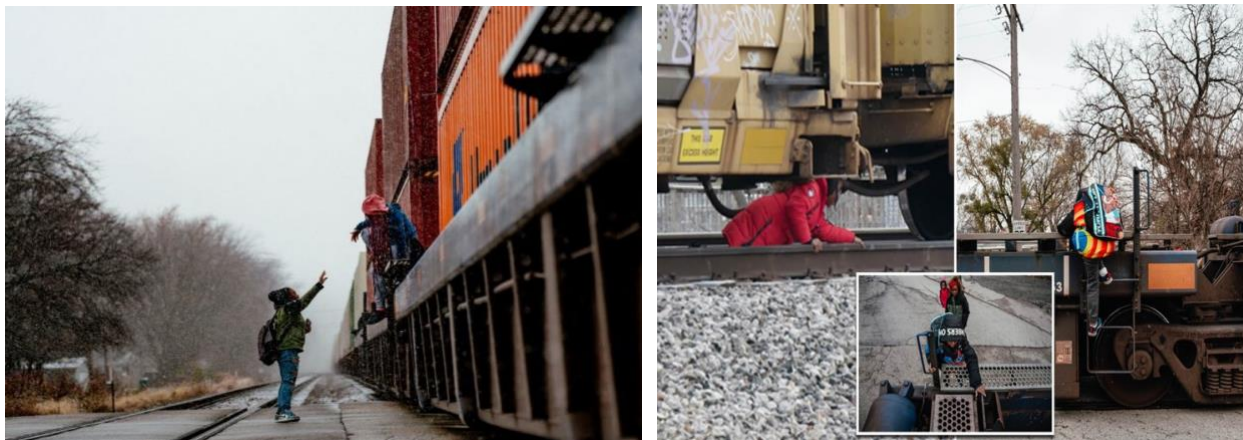
This provision would require the commissioner of labor and industry to establish and maintain a database regarding the transportation of hazardous materials and waste by rail in the state. The information may not be provided to the public, but the commissioner shall make the information available to the Maryland Department of Emergency Management.

In addition, this provision establishing reporting requirements could result in informing the appropriate local authorities and first responders in real time of the hazardous materials that are included in a train consist as it travels through their communities.

Regarding the AskRail app, many times cell phone and internet service is unavailable throughout the rural areas of the state where freight trains traverse, which makes the app useless in real time.

Blocked railroad crossings:

This provision prohibits railroads from blocking at grade rail crossings for more than 5 minutes while the train is standing unless it is in the process of boarding and discharging passengers. One of the purposes of course is to prevent railroads from blocking emergency vehicles from getting to their destinations promptly. There is also a very dangerous situation that has been occurring around neighborhoods. When freight trains have been blocking crossings for extended periods of time school children have been climbing through, under, and over these trains to get to school on time. Of course these trains could move at any time having very serious consequences to these children.



Limiting train length:

This provision provides that a railroad company may not operate a train that is a freight train or a work train that exceeds 8,500 feet in length on any part of a main track or a branch line. This also relates to the issue of blocking railroad crossings for extended periods of time. As you can imagine, a train that is 16,000 feet in length takes twice the time of an 8500-foot train to clear a crossing. In addition, the inertia forces between freight cars would be more severe for the engineer who is trying to handle the train in a safe manner.

Requirements regarding wayside detector systems:

Wayside defect detector systems would be required at certain intervals and to be in working order and capable of notifying the train crew when any event is detected that should initiate an alert. The tragic accident in East Palestine, Ohio could have been avoided had wayside detectors in proper working order with proper limits set for actuation been in place. These state-of-the-art systems can detect if a freight train has dragging equipment, or wheel bearings overheating, or a number of other indicators that could cause a derailment. Once detected, they should be able to notify the train crew who can take immediate action to remedy the situation.



East Palestine, Ohio



Allowing authorized representatives to conduct safety inspections:

This provision would authorize up to 2 designated railroad union representatives to enter railroad property for the purpose of conducting inspections of unsafe conditions as reported to them by their members that may violate federal or state laws, affect public safety, or result in injury or death to a railroad employee.

The State's railroad inspection division has one railroad inspector for over 2,000 miles of trackage throughout the state. With this limited amount of railroad inspectors responsible for the thousands of miles of trackage in the state, this legislation would just allow the supplementing of the inspection workforce when there is an urgent need for inspection. It would also prohibit the railroads from claiming the representatives are trespassing.

Every provision contained in this legislation is intended to make railroad operations in this state safer for the employees, the environment, and the communities these trains operate through. The railroads position that these provisions are burdensome on the industry and their profits should not out way making safety a first priority as all their corporate statements espouse.

WE THEREFORE URGE A FAVORABLE REPORT ON SB1060

Sincerely,

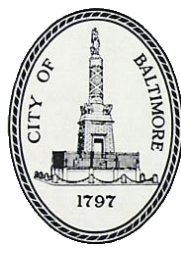


Lawrence E. Kasecamp
MD State Legislative Director
SMART Transportation Division

SB1060-FIN-SUPP.pdf

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB1060

March 14, 2024

TO: Members of the Senate Finance Committee
FROM: Nina Themelis, Director of Mayor's Office of Government Relations
RE: Senate Bill 1060 - Railroads - Safety Requirements (Maryland Railway Safety Act of 2024)
POSITION: SUPPORT

Chair Beidle, Vice Chair Klausmeier, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 1060.

SB 1060 would create standards for the operation of trains in the State, with an emphasis on oversized and understaffed freight trains. The maximum length of a train would be capped at 8,500 feet and require a minimum of two crew members per train. SB 1060 also establishes a database to track the transport of hazardous material by freight in the state of Maryland. In 2022 and 2023, Maryland saw a year-over-year increase in train accidents and derailments, exceeding pre-pandemic levels (U.S. DOT Federal Railroad Administration). The impact of train derailments and blocked intersections will only continue to grow as railroads continue to reduce overhead by running fewer trains, increasing freight length to compensate, and cutting back on personnel.

In addition to the risk of physical injury is the exposure of Baltimore residents to hazardous materials in the event of a derailment/accident. In February 2023, a train carrying toxic vinyl chloride in East Palestine, Ohio, derailed because of cost-cutting measures by rail company Norfolk Sothern. The dangerous chemicals leaked out and were subsequently burned off, causing contamination of the air and waterways in the area. Hazardous materials such as vinyl chloride are often transported via train and are highly volatile, carcinogenic, and difficult to decontaminate. While this derailment occurred in another nearby state, the derailment directly impacted Baltimore City due to the intent of neighboring officials to displace the toxic waste to Baltimore for processing. Ensuring railroad safety isn't just for the areas immediately surrounding rail lines, but has a regional and national impact. Regulation here in Maryland can improve the rail practices across the region.

SB 1060 bill would protect the City of Baltimore by setting parameters regarding what cost-cutting measures are impermissible due to safety risks for Baltimore citizens and railroad workers. Explicitly regulating railroads and the transport of hazardous materials throughout the state will mitigate the possibility of injury due to accidents and public health disasters, like the East Palestine derailment, occurring in a much more densely populated area such as Baltimore.

For these reasons, the BCA respectfully requests a **favorable** report on SB 1060.

SB1060-FIN_MACo_SWA.pdf

Uploaded by: Kevin Kinnally

Position: FWA



Senate Bill 1060

Railroads - Safety Requirements (Maryland Railway Safety Act of 2024)

MACo Position: **SUPPORT**

To: Finance Committee

WITH AMENDMENTS

Date: March 14, 2024

From: Kevin Kinnally

The Maryland Association of Counties (MACo) **SUPPORTS** SB 1060 **WITH AMENDMENTS**. This bill generally addresses railroad safety in Maryland, including strengthening requirements governing railroads' provision of hazardous materials information to state and federal emergency management officials.

Providing local emergency managers with access to accurate and up-to-date information about hazardous materials shipments on trains is a matter of public safety and a fundamental responsibility of government to protect its residents. As such, MACo requests an amendment to ensure rail hazmat information is available to the appropriate federal, state, and county emergency management officials.

Every day, trains crisscross Maryland communities, transporting goods essential to the state and regional economy. Among these goods are hazardous materials that, if mishandled or involved in an accident, pose significant risks to public safety, property, and the environment. From flammable liquids to toxic gases, the potential hazards are manifold, and the consequences of an incident can be catastrophic.

SB 1060 requires the Commissioner of Labor and Industry to establish and maintain a database on hazardous materials and waste moving by rail in Maryland. Under the bill, the Commissioner must make the information available to the Maryland Department of Emergency Management and the Federal Emergency Management Agency.

Local emergency managers are the first line of defense in mitigating and responding to emergencies within our communities. However, without comprehensive information on hazardous materials and waste moving through their jurisdictions, county emergency managers' ability to effectively prepare for and respond to hazmat-related incidents is severely compromised. Absent this vital knowledge, emergency responders may find themselves ill-prepared to contain spills, evacuate residents, or provide appropriate medical care in the event of an accident.

Ensuring county emergency managers have access to this critical information is essential to safeguarding public safety, enhancing emergency preparedness, and ensuring effective response and recovery efforts in the face of hazardous materials incidents. For these reasons, MACo urges the Committee to issue a **FAVORABLE WITH AMENDMENTS** report on SB 1060.

Testimony - SB1060_HB1446 - MD Railway Safety Act

Uploaded by: Aaron Tomarchio

Position: UNF



LEGISLATIVE TESTIMONY

To: Chair Beidle, Vice Chair Klausmeier and members of the Senate Finance Committee

Date: March 7, 2024

Re: **OPPOSE - SB1060 / HB1446 – Railroads – Safety Requirements
(Maryland Railway Safety Act of 2024)**

TradePoint Atlantic (TPA), the owner, manager, and developer of Sparrows Point, the former home of Bethlehem Steel in Southeast Baltimore County respectfully submits this testimony in opposition to SB1060 / HB1446 (Maryland Railway Safety Act of 2024).

Since 2014 TPA has taken on the challenge to clean up and remediate the environmental impacts of a century of steel making and prepare the former Sparrows Point steel mill in Baltimore for re-development into what is today a thriving global center of excellence as a leading tri-modal transportation, distribution, manufacturing, and maritime logistics hub, with over 50 world class tenant companies that directly employ over 13,000 Marylanders.

TradePoint Atlantic, the owner and operator of TradePoint Rail, an on-site short-line railroad that provides rail logistics operations for customers and tenants of TradePoint Atlantic believes this bill will jeopardize the productivity of the Port of Baltimore and nullify the substantial federal, state, and private investment to expand the Howard Street Tunnel to allow double stacking of containerized cargo by rail. Baltimore's port historically has been growth constrained through the inability to maximize the shipment of containerized cargo by rail to mid-west markets, a restriction that limits capacity and the overall efficiency needed for the port's shippers and customers.

TPA is specifically concerned with the bill's provision that limits the length of trains. This limitation will restrict cargo flow and the efficiencies that were going to be gained with the Howard Street Tunnel expansion. Furthermore, TPA recently announced a strategic partnership with Terminal Investments Limited (TiL), a subsidiary of Mediterranean Shipping Company (MSC), the world's largest shipper to construct the new \$1 Billion Sparrows Point Container Terminal within the Port of Baltimore, a project that will significantly expand Baltimore's port capacity and create an additional 1,100 new maritime union jobs. SB1060/HB1446 undermines and jeopardizes this project, one of the largest private economic investments planned within the Baltimore region. We urge the committee's unfavorable report.

About TradePoint Atlantic

The 3,300-acre former steel mill and industrial site in Baltimore, Maryland, offers a gateway to markets around the United States and the world, featuring a unique and unmatched combination of access to deep-water berths, rail, and highways. Groundbreaking agreements signed with federal and state environmental regulators in 2014 to remediate the legacy from a century of steelmaking have enabled the redevelopment of the site into a global center for trade and commerce. With 50 world class companies on site employing over 13,000 Marylanders, jobs are created, communities prosper, and industry is set in motion.

Contact: Aaron Tomarchio, EVP, Corporate Affairs | atomarchio@tradepointatlantic.com | 443-299-9803

CSX Hammock SB1060 Written Testimony.pdf

Uploaded by: Brian Hammock

Position: UNF



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

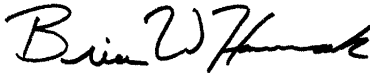
Dear Chair Beidle:

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.

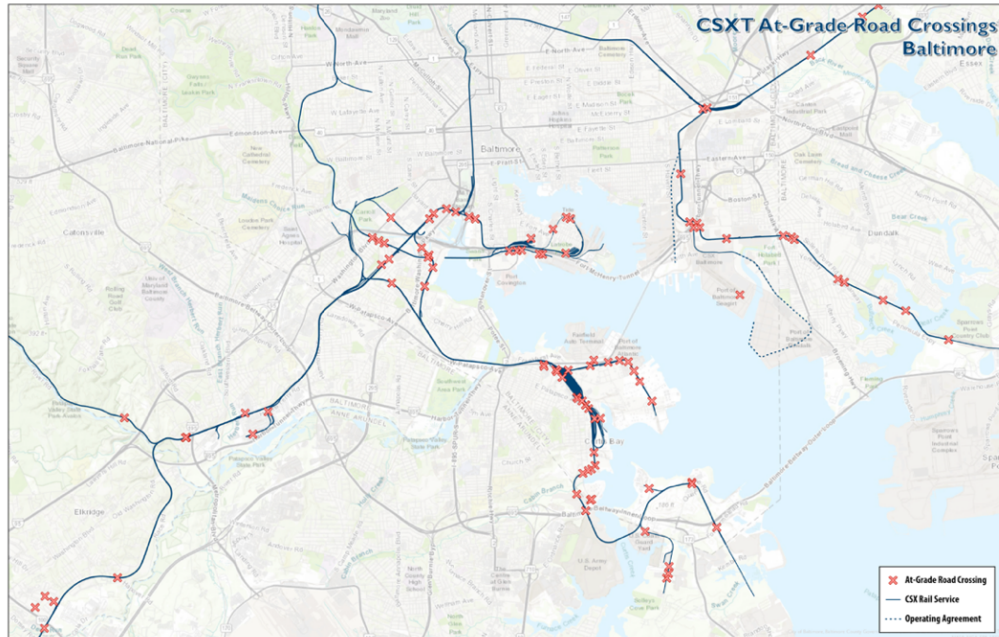
State and private entities are investing over \$2 billion to grow this business – the Howard Street Tunnel project, Trade Point Atlantic, Seagirt Marine Terminal – all significant state priorities that would be at risk. Growth of this business has a direct impact on the Transportation Trust Fund, which 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.¹ 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.² Moreover, the United States Supreme Court recently denied review in two federal case striking down ten-minute blocked crossing statutes in Ohio and Oklahoma.³ The Supreme Court did so again when Ohio sought review of a decision finding its blocked-crossing law preempted.

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

² 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).

³ 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,⁴ 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.⁵

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.”⁶

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.

⁴ 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](#)).

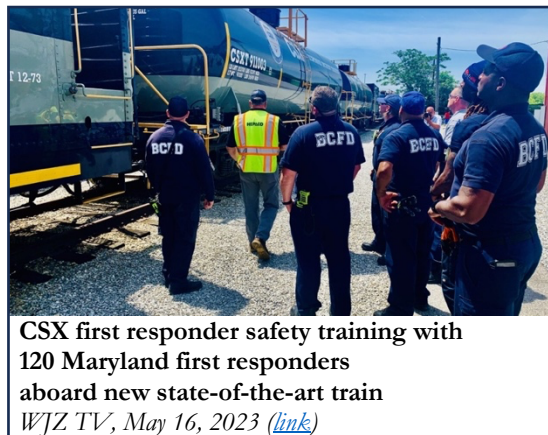
⁵ Prior to adopting new railroad safety and health regulations, existing Maryland law requires an economic impact statement, including direct and indirect effects of the regulation on the railroad industry, the public, and railroad employees, and a review of alternative approach available to ensure the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

⁶ 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.”⁷ 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 1986.⁸

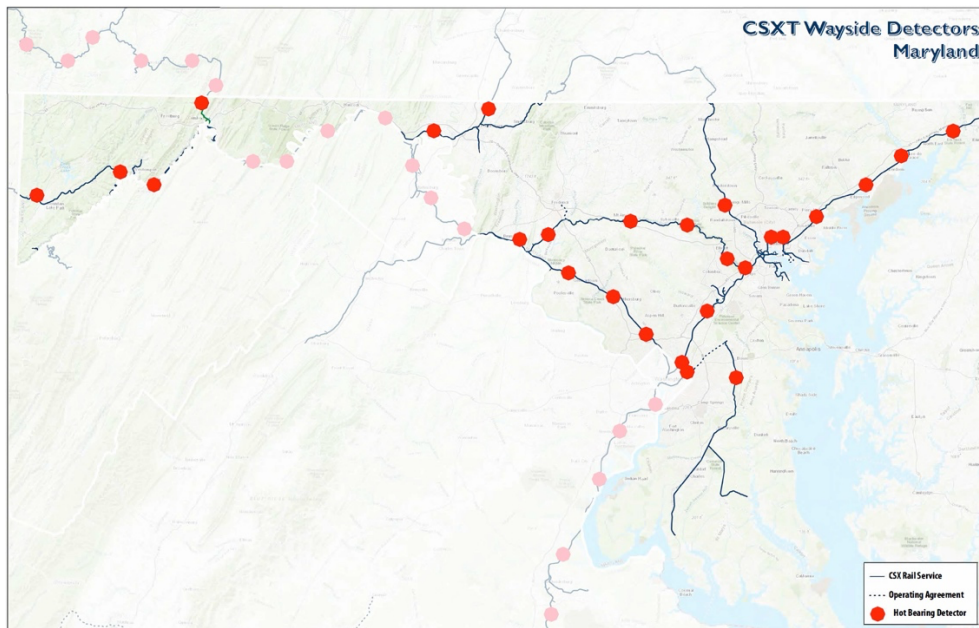
⁷ 49 CFR § 174.312(a) ([link](#)).

⁸ 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.⁹

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.¹⁰



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.

⁹ 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](#)).

¹⁰ 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 representatives¹¹ 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.¹² 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.¹³ States are preempted from establishing regulations outside of the framework established by Congress.¹⁴

¹¹ 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.

¹² See 49 USC § 20105(a) ([link](#)).

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

¹⁴ 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).

DCR Letter of Opposition - HB1446 SB1060 (1).pdf

Uploaded by: Cliff Grunstra

Position: UNF



Allegheny Valley Railroad
Delmarva Central Railroad
Southwest Pennsylvania Railroad

Cliff Grunstra
Vice President Sales & Marketing
Carload Express, Inc.
101 Delaware Ave
Harrington, DE 19952
Phone: 412.780.7767
cliffgrunstra@carloadexpress.com

March 14, 2024

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

RE: LETTER IN OPPOSITION TO HB1446/SB1060

Dear Chair Beidle and members of the Senate Finance Committee,

For the record I am Cliff Grunstra from Carload Express, Inc and I am writing to oppose HB1446/SB1060. As one of Maryland's Shortlines, we would be greatly impacted by many of the provisions outlined in the bill.

Carload Express has rail operations in MD, DE, VA and PA. Specific to Maryland, our Delmarva Central Railroad (DCR) serves several large and critical agricultural customers in the agribusiness and poultry industries.

In previous years, crew size bills that have moved through this committee had language to help carve out shortlines. However, the language around crew size in HB1446 is much broader, and does not take into account the differences in operations and staffing capacity between shortlines and much larger Class I railroad companies.

Additionally, some other provisions in the bill such as train length restrictions, blocked crossing limitations and wayside detector requirements will negatively impact our operations as they are onerous and unfairly restrictive.

For these reasons, we ask the committee for an unfavorable report on HB1446/SB1060.

Respectfully,

Cliff Grunstra
Vice President Sales & Marketing
Carload Express, Inc.
412-780-7767
cliffgrunstra@carloadexpress.com

SB 1060_MDCC_Maryland Railway Safety Act of 2024_U

Uploaded by: Hannah Allen

Position: UNF



LEGISLATIVE POSITION:

Unfavorable

Senate Bill 1060

Railroads - Safety Requirements (Maryland Railway Safety Act of 2024)

Senate Finance Committee

Thursday, March 14, 2024

Dear Chairwoman Beidle and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic growth and prosperity for Maryland businesses, employees, and families.

SB 1060 imposes new burdensome requirements on freight railroads and greatly expands state regulatory oversight. Maryland's freight rail industry is one of its most critical - helping to minimize transportation costs, manage our carbon emissions levels and strengthen our competitiveness. Our rail industry is responsible for thousands of direct jobs and contributes to hundreds of thousands of indirect jobs.

Both the State and private entities are heavily investing over \$2 billion into expanding container business operations at the Port. The Chamber has also supported FRA grants to help fund this important project. The Howard Street Tunnel project has been instrumental in catalyzing the development of a significant new container facility at Trade Point Atlantic, complemented by a surge in activity at the Seagirt Marine Terminal. This initiative enables the transportation of discretionary container traffic from Baltimore to the Midwest via double-stack container trains, which requires longer trains. Failure to utilize longer trains may render the businesses economically unfeasible, diverting volume to the nearby Port of Virginia.

The Transportation Trust Fund (TTF) benefits from revenue generated by container movements at Seagirt Marine Terminal. However, limiting train length curtails Maryland's growth prospects and diminishes TTF revenue despite projections of significant volume growth facilitated by the tunnel project. Between Howard Street Tunnel, Seagirt Marine Terminal, and Trade Point Atlantic, rail service is critical to making those investments viable. SB 1060 would upend all of the progress made over the last decade.

We learn from the history of the United States railroad system that onerous regulations have significant negative impact on the industry. In order to mitigate the heavy regulatory climate that led to multiple railroad bankruptcies in the 1970s, Congress passed a series of laws meant to ease the burden on railroads and create uniformity in laws between states. These laws established federal preemption provisions because of the difficulty placed on railroads having to conform to different regulations and policies traveling from one state to another.

The Maryland Department of Transportation projects that freight rail demands will increase by 45% by 2040. To keep up with these demands and ensure the easy movement of goods into, out of, and through the State of Maryland, it is in the best interest of the state to support legislation that facilitates, not hinders, this movement. Private companies, the State and the Federal government have all made significant investments in freight rail, knowing that it creates jobs, expands the economy, and increases Maryland's competitive edge.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report** on **Senate Bill 1060**.



Maryland Chemical Opposition.pdf

Uploaded by: Jeanette Partlow

Position: UNF



March 5, 2024

The Honorable Regina T. Boyce
6 Bladen Street
House Office Building Room 251
Annapolis, MD 21401

RE: LETTER IN OPPOSITION TO HB1446/SB1060

Dear Vice Chairman Boyce:

I write in strong opposition to HB1446 and SB1060 imposing new requirements on Maryland's freight rail network. For 71 years, Maryland Chemical Company has provided essential chemistry for government and private sector regional customers in the business of food processing, water and waste water treatment and manufacturing. Many of our products move by rail into the Baltimore Port geography.

Safety is key to all our operations and all stakeholders. The Port's competitiveness is key to our economy. The Port is one of our greatest assets and provides a path to the middle class for so many of our citizens. Safety measures and competitiveness need to be considered together.

For this reason, I ask that you oppose HB1446 and SB1060. Thank you.

Sincerely,

Jeanette G. Partlow

Jeanette Glose Partlow
President

Fraley Corp Opposition.pdf

Uploaded by: Jeff Fraley

Position: UNF



March 1, 2024

The Honorable Regina T. Boyce
6 Bladen Street
House Office Building Room 251
Annapolis, MD 21401

RE: LETTER IN OPPOSITION TO HB1446/SB1060

Dear Vice Chairman Boyce:

I write in strong opposition to HB1446 and SB1060 imposing new requirements on Maryland's freight rail network. As a Baltimore based industrial business, we rely heavily on a thriving Port to provide opportunity for folks without college degrees. Unnecessary regulation applied to the Railroad operators will directly result in a constrained Port and ultimately reduce our ability to provide family sustaining wages for the people who need them most, Baltimoreans.

As operator of a business that is so closely tied to the Port of Baltimore, I'm concerned about pending legislation that could undercut our Port's competitiveness. The Port is one of our greatest assets and provides a path to the middle class for so many of our citizens.

Port-related businesses are extremely cost sensitive operations. We need to continue the great strides made in recent years to make our Port more competitive, not go in the other direction. For this reason, I ask that you oppose HB1446 and SB1060.

Sincerely,

Jeff Fraley
President

2000 Benhill Avenue
Baltimore, MD. 21226
(410) 789-9474
www.fraleycorporation.com

SB1060- Maryland Midland Railway Opposition Testim

Uploaded by: Joe Arbona

Position: UNF

March 14, 2024

The Honorable Pamela Beidle, Chair
Senate Finance Committee
3E Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Good Afternoon

Chairwoman Beidle and Members of the Senate Finance Committee,

For the record, my name is Joe Arbona, representing the Maryland Midland Railway, and I am writing to oppose SB1060 - Railroads Safety Requirements (Maryland Railway Safety Act of 2024). As one of Maryland's short line railroads, the Maryland Midland Railway would be negatively impacted by many of the provisions laid out in the bill.

The Maryland Midland Railway, Inc. is an 81-mile short line railroad operating from Highfield to Emory Grove and from Taneytown to Woodsboro. Among our shippers are Lehigh Cement in Union Bridge, Laurel Sand & Gravel in Woodsboro, NVR and Structural LLC in Thurmont, Glen Gery Brick in Rocky Ridge. We play a key transportation role in rural parts of Maryland.

In previous years, crew size bills that have moved through this committee had language to help carve out short line railroads. Unfortunately, the language around crew size in SB1060 is broader than the past and does not address the differences in operations and staffing capacity between short line and large Class I railroads.

Additionally, some of the other provisions in the bill will have a negative impact on our short line, particularly the provision for railroads to allow union representatives to investigate railroad operations is very problematic and redundant. Labor union membership does not guarantee expertise to inspect railroads. That is a task currently carried out by expert inspectors of the Federal Railroad Administration.

For these reasons, I respectfully ask for an unfavorable report on SB1060.

Sincerely,

Joe Arbona
Assistant Vice President
Maryland Midland Railway

SB 1060 - Ports America Chesapeake.pdf

Uploaded by: Josh White

Position: UNF



The Honorable Pam Beidle
Senate Finance Committee
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Opposition to SB1060 Railroads Safety Requirements (Maryland Railway Safety Act of 2024)

Madam Chair & Members of the Committee

We are writing on behalf of Ports America Chesapeake, the terminal operator and stevedore responsible for operations at the Port of Baltimore, to express our opposition to SB1060, the proposed Maryland Railway Safety Act of 2024. Ports America strongly supports initiatives aimed at railway safety, yet the provisions outlined in this bill go too far, posing significant risks to the efficiency and competitiveness of the Port of Baltimore that are critical to its future growth and success. The Port of Baltimore serves as a vital economic driver for the state of Maryland, supporting thousands of jobs and facilitating billions of dollars in trade each year. Therefore, we must oppose legislation that may unnecessarily jeopardize the Port's ability to compete in the United States and around the world globe.

Several provisions will directly impact the Port of Baltimore:

Limitation on Train Length

Efficiency and Capacity: Freight trains greater than 8,500 feet in length are common in the transportation industry due to the economies of scale they offer in terms of efficiency and capacity. Restricting train length could significantly impact the Port of Baltimore's ability to handle large volumes of cargo efficiently, especially during peak periods.

Economic Impact: Standard length trains allow for the transportation of larger quantities of goods in a single trip, reducing transportation costs for businesses and enhancing the competitiveness of the port. Limiting train length would increase the number of trains required to transport the same amount of cargo, leading to increased congestion, operational costs, and potentially higher fees for port users.

Intermodal Connectivity: Longer trains facilitate better integration with intermodal transportation networks, such as rail-to-truck or rail-to-ship transfers, improving overall logistics

efficiency. Limiting train length could disrupt these intermodal connections and make the Port of Baltimore less attractive to shippers seeking seamless transportation solutions.

Reducing Grade Crossing Time to No More Than 5 Minutes

Impact on Operations: This provision could hinder the efficient movement of freight trains to and from the Port of Baltimore. Delays in train movement due to strict time limits on grade crossing blockages would disrupt supply chains and negatively affect port operations.

Safety Concerns: Safety is paramount to Ports America Chesapeake, yet arbitrary time limits may have the opposite intended effecting - forcing operators to rush through operations or make hasty decisions to avoid exceeding the time limit and potentially compromising safety protocols. Ensuring safety while maintaining the fluidity of rail operations is essential both for keeping workers safe and the port's competitiveness.

Competitive Disadvantage: Imposing such strict time limits on grade crossing blockages could place the Port of Baltimore at a competitive disadvantage compared to other ports with more flexible regulations. Shippers may opt for ports with smoother rail operations to avoid delays and associated costs.

Other Provisions

Mandatory Crew Size Requirements: Requiring specific crew sizes for railroad operations could significantly increase operating costs for railroads serving the port. This increase in costs may be passed on to port users, making the Port of Baltimore less competitive compared to other ports with more flexible regulations.

Wayside Detectors Mandate: Mandating the installation of wayside detectors could lead to additional infrastructure costs for railroads operating in the state. These costs may result in increased fees for transporting goods through the port, making the Port of Baltimore less attractive to shippers seeking cost-effective transportation solutions.

Labor Union Investigation Requirement: Requiring investigations by railroad labor union representatives could introduce delays and bureaucratic hurdles in the event of incidents or accidents. Such requirements may hinder the timely resolution of issues and disrupt port operations, affecting the port's competitiveness and reliability as a transportation hub.

Database for Hazardous Materials Transportation: It is essential that we ensure transparency and oversight of hazardous materials transportation, but the legislation's administrative burden of maintaining a comprehensive database could divert resources away from core port operations. This diversion of resources may lead to inefficiencies and increased costs for port users, diminishing the port's competitiveness.

We share Maryland railway safety goals, but the provisions outlined in SB 1060 pose significant challenges that could harm the competitiveness and efficiency of the Port of Baltimore. We urge

you to reconsider these provisions and work with industry stakeholders to develop balanced solutions that prioritize safety without compromising the port's ability to compete in the global marketplace.

Thank you for considering our concerns. Should you require any further information or clarification, please do not hesitate to contact Ports America Chesapeake.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Leech".

Matthew Leech
President & CEO
Ports America

A handwritten signature in blue ink, appearing to read "Mark Schmidt".

Mark Schmidt
VP & General Manager
Ports America Chesapeake

UNF Testimony_SB1060_LM (3-14).pdf

Uploaded by: Lydia McPherson

Position: UNF

March 14, 2024

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

RE: LETTER IN OPPOSITION TO SB1060

Good Afternoon

Dear Chairman Beidle and members of the committee,

For the record my name is Lydia McPherson, and I am the regional Government Relations Manager for Norfolk Southern. I am testifying today in regard to SB1060.

First, I want to take this opportunity to both recognize and commend the committee's intent to help make rail - the safest, most efficient, and most sustainable way to transport goods over land that exists today - even safer. This is a goal that Norfolk Southern shares and is committed to advancing. However, due to the unique and critical role that the national railroad network plays in our nation's supply chains, it is important that rail policy remain nationally uniform, as it traditionally has been, rather than regulated state by state. In fact, some of the issues within the bill are already actively being addressed by the Federal Railroad Administration (FRA) through a comprehensive and robust rulemaking process. This existing process engages multiple stakeholders and aims to ensure that the suggested regulations have nationwide applicability as well as recognize the importance of consistent regulations in interstate commerce.

Take the issue of crew size, for example. In its 2022 Notice of Proposed Rule Making (NPRM) for Train Crew Size Safety Requirements, the FRA cites the need to prevent various state laws from "creating a patchwork" of regulation throughout the country. The FRA notes that "such a patchwork of State laws would likely result in significant cost and operational inefficiencies, and *even potential safety concerns* from a lack of a uniform standard."¹ This focus on nationwide standards will undoubtedly carry forward to the Final Rule, which is expected later this year.

This principle of nationwide regulatory consistency is important in many other areas of railroad operations, including Wayside Detector Systems. The installation and maintenance of wayside detectors is an investment that railroads have taken upon themselves to implement without regulatory mandate. While certain aspects of these systems, such as hot wheel bearing detectors, have been utilized by the industry for many years, newer technology is continuously being developed and best practices surrounding these complex systems are still evolving. Norfolk Southern and our industry partners continue to engage with the FRA on this topic. This includes working with the federal Railroad Safety Advisory Committee (RSAC) that was recently

¹ [Train Crew Size Safety Requirements](#), 87, No. 144, (Proposed July 28, 2022) (to be codified at 49 CFR Part 218)

established to develop new regulations for wayside detector systems, including location, testing, maintenance, alarm response, and other related topics. If the regulation surrounding the use of wayside detectors were to differ from state to state, it could create confusion or even hinder innovation and collaboration between nationwide stakeholders. While the railroad industry may not always agree with all regulatory efforts, we recognize that any regulations need to be nationwide in scope and application.

Safety is at the core of Norfolk Southern's operations. In 2023, our company invested \$1 billion into infrastructure improvements throughout our 22-state network, and strengthened our preexisting safety procedures in accordance with our ongoing mission of becoming an even safer railroad for our employees and the many communities we serve. As we continue this work, it is important that we engage in thoughtful conversations around the best way to move the industry forward throughout our entire system, not just here in Maryland, and avoid the problems associated with an inconsistent regulatory environment.

For these reasons, I respectfully ask for an unfavorable report on SB1060.

Sincerely,

Lydia McPherson
Norfolk Southern
Manager of Government Relations

UNF Testimony_SB1060_RN (3-14).pdf

Uploaded by: Lydia McPherson

Position: UNF

March 14, 2024

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

RE: LETTER IN OPPOSITION TO SB1060

Good Afternoon

Dear Chair Beidle and Members of the Senate Finance Committee,

My name is Randy Noe and I am Assistant Vice President Regulatory Affairs at Norfolk Southern Corporation. The purpose of my written testimony is to address the Maryland Railway Safety Act of 2024 (HB 1446/SB 1060). For the reasons set forth below, I believe the Act is preempted by federal law.

I do recognize that preemption can be a controversial topic. Railroads view themselves as partners with the states in which we operate. We work regularly with communities in Maryland and with those in state government to better serve our customers and to be good corporate citizens.

While we always will value our partnership with states like Maryland, there is no ignoring that the federal government plays a large role in regulating our industry. Regulation of interstate commerce is one of Congress's enumerated powers set forth in the Constitution, and it is difficult to think of an industry that embodies interstate commerce more than railroading. It is important that rail transportation is generally regulated at the federal level because the efficient flow of freight between the states benefits the nation as a whole. If railroads were to be regulated by a patchwork of state laws that caused us to change our operations when one of our trains crossed a state border, it would hinder our ability to deliver the service product our customers are counting on.

This is not to say that states never have a role in regulating subjects involving our industry. For example, states typically regulate grade crossing warning devices, deciding the types of devices appropriate for highway rail grade crossings given traffic levels, sight distances, and other factors. This is an area in which states still exercise their traditional police powers without encroachment into fields occupied by the federal government, and they are areas in which states and railroads typically work as partners to improve safety.

The challenge is how to balance a state's police powers with the exclusive authority of the federal government. Where that balance may be found lies in federal statutes and case law. The U.S. Congress has enacted four statutes that preempt various provisions of the Act – the Regional Rail Reorganization Act (“3R Act”) (45 U.S.C. § 797j)), the ICC Termination Act of 1995

("ICCTA") (49 U.S.C. § 10501(b)), the Federal Railroad Safety Act ("FRSA") (49 U.S.C. § 20106(a)(2)), and the Hazardous Materials Transportation Act ("HMTA") (49 U.S.C. § 5125).

Preemption under the 3R Act

Preemption under the 3R Act is very straightforward. Section 711 of the 3R Act provides that:

No state may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation [Conrail] to employ any specified number of persons to perform any particular task, function, or operation, or requiring the Corporation to pay protective benefits to employees, and *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.*

45 U.S.C. § 797j (emphasis added). Maryland is a “State in the Region” as defined by Section 102 of the 3R Act. 45 U.S.C. § 702(17) & (19). And railroads that operate in Maryland are “railroad[s] in the Region” under Section 711 of the 3R Act. *See* § 702(15) & (17). The purpose of the 3R Act “was to give Conrail”—the Railroad created by Congress to continue operations over the lines of several bankrupt rail carriers— “the opportunity to become profitable, but not necessarily to disadvantage all other railroads at the same time.” *Norfolk & W. Ry. Co. v. Pub. Utils. Comm’n of Ohio*, 582 F. Supp. 1552, 1556 (Reg’l Rail Reorg. Ct. 1984).

The **crew size provision** of the Act clearly runs afoul of Federal law because it would do precisely what the 3R Act forbids – requiring railroads in Maryland to employ a specified number of persons to perform a particular task, function or operation. Just three years ago, a federal judge struck down a similar law in Illinois requiring a minimum of two crew members to operate freight trains in the state. *Ind. R.R. Co. v. Ill. Commerce Comm’n*, 576 F.Supp.3d 571 (N.D Ill. 2021). Finding that “[t]he preemption language of the 3R Act is too specific to ignore” (*Id.* at 757), the court held that the Act expressly preempted the state crew size law. The court rejected what it characterized as “several creative arguments” posed by the state law’s defenders to avoid the 3R Act. *Id.* at 576. It dismissed the argument that while economic-based state laws are preempted by the Act, safety-based laws are not, noting that the text of the federal statute does not support such a distinction. *Id.* The court also made short work of the claim that the 3R Act is no longer valid in Illinois because Conrail no longer operates in the state, holding that there is neither a textual nor constitutional basis for the argument. *Id.* at 577.

Similar efforts to regulate crew size in other states in the Region covered by the 3R Act also have been invalidated. *See, e.g., Norfolk & W. Ry. Co. v. Pub. Serv. Comm’n of W. Va.*, 858 F. Supp. 1213, 1214 (Reg’l Rail Reorg. Ct. 1994) (West Virginia crew-size statute preempted); *Boettjer v. Chesapeake & Ohio Ry. Co.*, 612 F. Supp. 1207, 1209 (Reg’l Rail Reorg. Ct. 1985) (Indiana statute preempted); *Keeler v. Consol. Rail Corp.*, 582 F. Supp. 1546, 1550 (Reg’l Rail Reorg. Ct. 1984) (same).

Preemption under the ICCTA

The ICCTA establishes that the U.S. Surface Transportation Board’s jurisdiction over

“transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers... is *exclusive*.” 49 U.S.C. § 10501(b) (emphasis added). Because the ICCTA’s remedies are “exclusive,” they “preempt the remedies provided under Federal or State law.” *Id.*

Several provisions of the Act are preempted by the ICCTA because they will manage, govern, unreasonably burden, and unreasonably interfere with rail transportation – the **crew size provision**, the **blocked crossing provision**, the **train length provision**, and the **wayside detector provision**.

The **crew size provision** is preempted by the ICCTA because it imposes train crew staffing requirements that will burden interstate commerce. Trains moving between states with differing crew-size requirements would need to stop to add or remove crew members, causing railroads to incur additional costs for rest facilities and crew transportation and—ultimately—reducing efficiencies for shippers and the public. The Act imposes exactly the balkanized and unreasonably burdensome system of transportation regulations that the ICCTA was designed to prevent.

The **blocked crossing provision**, which prohibits an operator of a train from blocking a highway crossing for more than five minutes, also is preempted by the ICCTA. It is well settled that state blocked crossing statutes like the one set forth in the Act “usurp[] the exclusive jurisdiction of the [Surface Transportation Board].” *State v. CSX Transp. Inc.*, 200 N.E.3d 215, 220 (Ohio 2022). “Regulating the time a train can occupy a rail crossing impacts, in such areas as train speed, length and scheduling, the way a rail carrier operates its trains, with concomitant economic ramifications.” *Id.*, quoting *Friburg v. Kansas City S. Ry. Co.*, 267 F.3d 439, 444 (5th Cir. 2001).

A state law dictating a **maximum train length**, as the Act does, is even more obviously preempted by the ICCTA (in addition to violating the Commerce Clause of the U.S. Constitution; see, *S. Pac. Co. v. Arizona*, 325 U.S. 761 (1945)). Such a law would purport to directly regulate railroads’ operations, effectively requiring them to use greater numbers of shorter trains to move the same amount of freight. Not only would a train length law require significant adjustments to railroads’ operating plans, which would have widespread impacts throughout their networks not only in Maryland but in other states, it also would require them to procure more locomotives, train crews, and other resources. States are not permitted by the ICCTA to manage rail operations in this way.

The **wayside detector provision** of the Act would require certain railroads to install wayside detector systems according to criteria dictated by the State Commissioner of Transportation, and to operate and maintain those systems in prescribed fashion. Although Norfolk Southern and other railroads have robust wayside detector systems already in place in Maryland, this provision also runs afoul of the ICCTA. Not only might it force railroads covered by the terms of the Act to devote capital to comply with the State’s decisions about their operating

facilities, which is forbidden by the ICCTA (*see, City of Cayce v. Norfolk Southern Rwy. Co.*, 391 S.C. 395 (2011)), it also purports to direct covered railroads to operate and maintain those facilities according to State requirements. Such State management of railroad operations is an intrusion on the Surface Transportation Board's exclusive jurisdiction and is preempted by the ICCTA.

Preemption under the FRSA

When it enacted the FRSA, Congress directed that “[l]aws, regulations, and orders related to railroad safety” must be “nationally uniform to the extent practicable.” 49 U.S.C. § 20106(a)(1). To accomplish this important objective, Congress provided that a state law is preempted when the Secretary of Transportation – which has delegated its powers over rail safety to an expert federal agency, the Federal Railroad Administration (“FRA”) – “prescribes a regulation or issues an order covering the subject matter of the State requirement.” 49 U.S.C. § 20106(a)(2). While States are permitted to continue in force such laws where necessary to eliminate a local safety hazard, state-wide laws do not qualify for the local safety hazard exception.

When FRA regulates an area related to railroad safety, states may not also regulate that area. *CSX Transp., Inc. v. Easterwood*, 507 U.S. 658 (1993). Likewise, when “FRA examines a safety concern regarding an activity and affirmatively decides that no regulation is needed, this has the effect of being an order that the activity is permitted.” *Burlington N. & Santa Fe Ry. Co. v. Doyle*, 186 F.3d 790, 801 (7th Cir. 1999). When FRA makes that decision, “States are not permitted to use their police power to enact such a regulation.” *Marshall v. Burlington N., Inc.*, 720 F.2d 1149, 1154 (9th Cir. 1983).

At least two provisions of the Act are preempted by the FRSA – the **blocked crossing provision** and the **property access provision**. The **crew size provision** will be preempted by the FRSA once FRA takes action on its proposed crew size regulation, which is expected soon.

Just as state **blocked crossing statutes** are preempted by the ICCTA, they also are preempted by the FRSA. *See, e.g., CSX Transp., Inc. v. Plymouth*, 283 F.3d 812 (6th Cir. 2002). This is so because, among other things, setting maximum times that trains may occupy crossings restricts a railroad's performance of federally mandated brake tests, a subject covered by FRA regulations. *Id.* at 817.

The **property access provision**, whereby the State would force railroads to authorize union representatives to conduct investigations of their property and facilities to discern, among other things, violations of state and federal safety laws, also is preempted by the FRSA. FRA has promulgated regulations at 49 C.F.R. Part 212 that establish “standards and procedures for State participation in investigative and surveillance activities.” 49 C.F.R. § 212.1. Maryland is not permitted by the FRSA to create another scheme by effectively deputizing labor representatives to conduct these same or similar activities. Because the subject matter is covered by a regulation prescribed by FRA, this provision of the Act is not permitted under federal law.

Finally, the **crew size provision** will be preempted soon. On July 28, 2022, the FRA published a proposed rule governing minimum requirements for train crew sizes. FRA, *Train Crew Size Safety Requirements*, 87 Fed. Reg. 45,564. As part of its justification for its proposed rule, FRA stated its intention to “prevent the multitude of State laws regulating crew size from creating a patchwork of rules governing train operations across the country.” 87 Fed. Reg. at 45,565.

Once it considers all of the comments that it has received in response to its proposal, FRA will do one of three things – (1) it will promulgate the proposal as a final rule; (2) it will promulgate a modified version of the proposal regulating crew size as a final rule; or (3) it will not enact a rule regulating crew size. No matter what it does, once FRA takes final action on its proposal all state crew size laws, including the Maryland law proposed in HB 352, will be preempted by the FRSA.

The Ninth Circuit’s decision in *Transp. Div. of Int’l. Ass’n-SMART v. FRA*, 988 F.3d 1170 (2021) does not hold to the contrary. The court in that case considered FRA’s withdrawal of a nationwide crew size regulation proposed by the agency in 2016. *Train Crew Staffing*, 84 Fed. Reg. 24,735 (May 29, 2019) (the “Order”). The court evaluated whether the Order preempted state crew size laws under the FRSA and found that the FRA’s analysis came up short. The court found that the agency had failed to “address why state regulations addressing local hazards cannot coexist with the Order’s ruling on crew size.” In the absence of any safety rationale for preemption, the court held that the Order did not implicitly preempt state crew size laws. *Id.* at 1180. The court also criticized the agency for failing to give adequate notice of the preemptive effect of its decision at the notice of proposed rulemaking stage, holding that its failure to do so was a violation of the Administrative Procedure Act. *Id.* at 1181.

Whatever federal preemption deficiencies there may be in the 2019 Order were cured by the 2022 proposal. FRA specifically expressed its intention to preempt state law and analyzed why state crew size laws are incompatible with the national interest. Indeed, federal preemption is a principal justification for the rule, with FRA noting its concern that a lack of national uniformity “would likely result in significant cost and operational inefficiencies, and *even potential safety concerns.*” 87 Fed. Reg. at 45,565 (emphasis added). As the agency further noted, “FRA could articulate FRA’s preemption of crew size requirements through a rulemaking without establishing minimum crew size requirements,” (87 Fed. Reg. at 45,571), setting the stage for preemption even if the agency ends up not adopting a national crew size rule.

One way or another, the FRA is poised to cover the subject matter of crew size. Once it does, state crew size laws like the one proposed in the Act will be preempted by the FRSA. Note that, according to the Fall 2023 Unified Agenda of Regulatory and Deregulatory Actions maintained by the Office of Information and Regulatory Affairs, a final rule on crew size is expected in March of 2024. Office of Information and Regulatory Affairs, Unified Agenda, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202310&RIN=2130-AC88> (last visited Mar 1, 2024).

Preemption under the HMTA

The Hazardous Materials Transportation Act (“HMTA”), 49 U.S.C. §§ 5101-5128, governs the transportation of hazardous materials in commerce and preempts, generally, state or local requirements when: (1) compliance with the state and local requirement and the requirements of the HMTA is not possible; (2) the state or local requirement is an obstacle to compliance with the HMTA; or (3) the state or local requirement relates to a subject covered by the HMTA and is not “substantively the same as” a requirement of the HMTA. “Covered Subjects” include the “designation, description, and classification of hazardous materials.” 49 U.S.C § 5125(b) and 49 CFR §§ 107.201-202.

The **hazardous materials database provision** of the Act is preempted by the HMTA. The Act’s requirement that railroads report information to the Commission of Labor and Industry is preempted as it could be substantively different than the requirements under the HMTA and would also represent an impermissible obstacle to a railroad’s ability to comply with the HMTA. Both courts and the Department of Transportation have concluded that requirements for information or documentation in excess of federal requirements create potential delay, constitute an obstacle to accomplish the requirements of the HMTA, and are preempted. *See, Southern Pac. Transp. Co. v. Public Serv. Comm’n of Nevada*, 909 F.2d 352 (9th Cir. 1990). Additionally, the DOT has determined that there is not a *de minimis* exception to this “obstacle” test because thousands of jurisdictions could impose *de minimis* information requirements. Further, the Act’s ability to create its own definition of “hazardous materials” and “hazardous waste,” which may differ from those provided by the HMTA, has also been found to be preempted. *Missouri Pacific R.R. Co. v. Railroad Commission of Texas*, 671 F. Supp 466 (W.D. Tex 1987). For a complete review and index of decisions on the preemptive effect of the HMTA, see the U.S. DOT’s Index to Preemption of State and Local Laws and Regulations Under the Federal Hazardous Material Transportation Law (dated March 15, 2022) available at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2022-03/Preemption-Index-June-2020-March-2022.pdf>.

Conclusion

For the reasons set forth above, I respectfully submit that the Maryland Railway Safety Act of 2024 is preempted by federal law and ask this Committee to report unfavorably on the bill.

SB1060_CantonRailroad_UNF

Uploaded by: Paul Barnes

Position: UNF



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:

I write in strong opposition to SB1060 imposing new requirements on Maryland's freight rail network. The Canton Railroad is a 16-mile Class III short line which has served customers since 1906 in the Port of Baltimore area.

As operator of a business that is so closely tied to important Baltimore shippers and to the Port, I am concerned about pending legislation that could undercut our customers' and the Port's competitiveness. The Port is one of our greatest assets and provides a path to the middle class for so many of our citizens.

The Canton Railroad is a common carrier in the movement of interstate commerce. Accordingly, we are partly regulated by only the Federal government. Additional and separate regulation of the U.S. freight rail network by each of the 50 States would promote an inefficient patchwork, ultimately pushing much freight traffic to already congested highways.

For much of the last fourteen months, The Canton Railroad has operated at a significant net loss. Any proposed oversight by the State of Maryland regarding the proposals described in SB1060 would significantly and adversely impact our path to profitability. Specific impacts to our business are more fully described on the attached page two.

Our operation is extremely cost-sensitive, particularly since we compete with over-the-road truck on price and service each and every day. Additionally, we need to continue the great strides made in recent years to make our port more competitive, not go in the other direction. For this reason, I ask that you oppose SB1060.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul Barnes', is written over a horizontal line.

Paul Barnes
President & CEO

TWO-MAN CREW

Specifically, a two-man crew requirement would add considerable time and cost to our operation. Based on previous studies and my professional observations riding with locomotive crews, multiple crew members in a locomotive cab could create distractions, impeding safety and productivity.

HAZMAT DATABASE

The Canton Railroad operates safely and has not had an incident involving hazardous material since 2007. We train our employees on a regular basis to ensure safe operations. We coordinate with first responders to ensure they are informed of the hazardous commodities our railroad moves and we offer training to educate first responders and employees on how to handle any releases. Accordingly, the need for a State-operated hazardous material railroad database is not needed.

UNION INSPECTIONS

The provision for railroads to allow union representatives to investigate railroad operations is very problematic and redundant. The Federal Railroad Administration (FRA) inspects our operation on a regular, usually unannounced basis. The FRA are experts in the inspection 'field'; Labor union members are not.

SB1060- MPA MTA - Railway Safety Act_LOI_FINAL.pdf

Uploaded by: Patricia Westervelt

Position: INFO

March 14, 2024

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

Re: Letter of Concern – Senate Bill 1060 – Railroads – Safety Requirements

Dear Chair Beidle and Committee Members:

The Maryland Department of Transportation respectfully offers this letter of concern on Senate Bill 1060 as its provisions may have significant detrimental impacts on the Port of Baltimore, one of the leading ports in the nation for freight and an economic generator for the State of Maryland. Further, this legislation has the potential to have an adverse fiscal impact on the Transportation Trust Fund (TTF).

Senate Bill 1060 would impose new regulations on freight railroad companies operating in the State of Maryland, which may be preempted by federal law. These restrictions would limit the lengths of trains and inflate shipping costs with mandates that create a patchwork of state regulation on the national supply chain. Many businesses in Maryland rely on the efficient rail service provided by freight railroads operating in the State, providing access to raw materials for manufacturing and a cost-effective and environmentally conscious mode of transport for finished goods. Rail lines are critical arteries in the supply chain. Senate Bill 1060 risks weakening Maryland's link in a competitive marketplace.

The Port of Baltimore and Seagirt Marine Terminal have grown significantly, breaking records, adding jobs, and bolstering economic activity in the process. In 2023, the Port of Baltimore set a new record for public and private cargo handled, moving 52.3 million tons of cargo through Maryland, surpassing the previous record of 44.2 million tons set in 2019. The Port also saw a record \$80.8 billion worth of foreign cargo. For this growth to continue, it is necessary to have viable intermodal options to ensure cargo throughput remains at optimal levels.

By enforcing a train length limitation of 8,500 feet, this legislation threatens the State's ability to maximize the benefits and return on investment for the Howard Street Tunnel Project. With anticipated completion in 2027, the project will create a seamless double-stack rail corridor from the Port of Baltimore to the Midwest. It is a game-changer for Maryland. Expected to generate approximately 7,290 jobs in the state from over 100,000 additional containers at Seagirt Marine Terminal, the project has also played a critical role in inducing the construction of a major new \$1 billion container terminal at Tradepoint Atlantic, which will significantly expand terminal capacity and create an additional 1,100 new maritime union jobs.

The Maryland Transit Administration (MTA) is one of the largest multi-modal transit systems in the United States, operating six distinct modes, including the Maryland Area Regional Commuter (MARC) Train Service. The MTA and CSX Transportation, Inc. (CSX) have an Access Agreement that provides MARC trains access to CSX-owned tracks and infrastructure on the MARC Camden and Brunswick Lines. It is expected that the provisions outlined in Senate Bill 1060 either will, or could, result in a significant fiscal impact to the MTA.

The Honorable Pamela Beidle
Page Two

In the most recent Access Agreement between MTA and CSX, which went into effect on July 1, 2021, MTA is required to reimburse CSX for up to \$6.0 million annually in the event that the State of Maryland modifies its laws or regulations to increase crew size. The Maryland Department of Transportation (MDOT) is currently experiencing a budget shortfall and should the State pass legislation prior to the FRA's ruling on federal crew size requirements, MTA would be responsible for this additional cost, which would cause an additional and significant strain on the TTF and would impact the development and the delivery of other projects.

It can be expected that the other provisions outlined in Senate Bill 1060 will be included in MTA and CSX's Access Agreement, and MTA estimates that there will be a fiscal impact of approximately \$130 million over the first five years of implementation.

In July 2022, the Federal Railroad Administration (FRA) proposed regulations establishing minimum requirements for the size of train crews depending on the type of operation. Since FRA is expected to issue a final rulemaking on a federal crew size mandate this year, mandating that carriers in the State of Maryland use a larger crew size than is currently federally mandated could result in a patchwork of state regulations on the national supply chain.

At the Port of Baltimore, the MPA works hard to accomplish its mission to increase waterborne commerce through the State of Maryland in a way that benefits the citizens of the State. In doing so, the Port has consistently proven its value as a good neighbor and strong partner throughout the State. The Port of Baltimore generates 15,330 direct family-supporting jobs for Marylanders, where the average wage of these jobs exceeds the statewide average annual wage by 9.5%.

Carriers will always move cargo by the most efficient and economical means and the Port is in constant competition with rival ports to increase cargo volumes, maintain terminal efficiencies, and generate positive economic growth. For the Port to continue to operate successfully as an economic engine, Maryland cannot afford to be at a competitive disadvantage with our neighboring ports, as the success of our Port directly benefits the State and the hardworking men and women who depend on it. The various provisions in this legislation may put the Port of Baltimore at a competitive disadvantage with neighboring ports and deter carriers from operating in the State, resulting in a loss of jobs and investment directly related to the Port.

The Maryland Department of Transportation respectfully requests the committee take into consideration these concerns.

Respectfully Submitted,

Pilar Helm
Director of Government Affairs
Maryland Department of Transportation
410-865-1090

Jonathan Daniels
Executive Director
Maryland Port Administration

Holly Arnold
Administrator
Maryland Transit Administration