

July 13, 2023

Dear Members of Congress:

The undersigned individuals write to express concerns with the [Railway Safety Act](#) (S. 576). Safety advancement in any mode of transportation, including U.S. freight railroading, is critical; but public policy should be written to address specific problems. It should be rooted in data and pass the muster of cost-benefit analysis.

While the legislation that cleared the Senate Commerce Committee is better than the original bill introduced in March, it still includes far too many prescriptive policies, unduly favors organized labor, and would unduly empower unelected bureaucrats. This is why it garnered the support of just two Republicans on the Committee.

Sen. Ted Cruz, ranking member of the Commerce Committee, and energy experts have also outlined how the bill would disrupt domestic energy production, while the agriculture, propane, and intermodal transportation industries, to name a few, remain opposed.

The most glaring issues with the legislation include the following:

- The bill seeks to mandate that large railroads maintain two-person crews – the current standard set by voluntary collective bargaining – in perpetuity. Public policy groups have [opposed](#) this measure, also being pursued by the Biden administration’s Department of Transportation, because it is unneeded, ignores technology backstops, and would lessen competition. Two may seem better than one, and perhaps two will be the voluntary standard into the future, but lawmakers should not cement this into law, especially not in reaction to a February train derailment that included a three-member crew. Railroads should have the flexibility to adjust their operations in the future. This measure is likely why Sen. John Thune (R-SD) called the bill a “stalking horse for onerous regulatory mandates and union giveaways.”
- The largest section of the bill deals with the movement of hazardous materials, triggering an unfathomable number of future rulemakings pertaining to issues such as train size. As currently written, these rulemakings would avoid cost-benefit analysis (CBA). Conservatives have long championed the need for CBA because no human activity is 100% safe 100% of the time. Every activity involves some form of CBA. New railroad safety laws should certainly require them, including a survey of the likely risks created as railroads and shippers alter procedures to mitigate the cost of the new rules.
- Lastly, the bill also includes prescriptions on the use of trackside detectors, which exist today not because of regulatory wisdom but market innovation. Rather than dictate expansion of these proven technologies, government policies should seek to incentivize their evolution and adoption. Time and time again, when the federal government locks into a single technology the public suffers as industry lacks the flexibility or incentive to pursue next-generation technologies.

Railroads are crucial for the efficient running of the nation's supply chain. That makes it all the more important that Congress pursue wise, cost-effective policies that benefit the entire nation, as opposed to

ones that primarily aid a few well-placed special interests. Congress needs to avoid rushed policymaking that caters to special interests rather than addressing the issues at hand in a thoughtful, cost-effective manner.

Sincerely,

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