



## Fabrications vs Facts - Railroad Public Safety Legislation

### HB 1841 Safe Train Crew Size

RAILROAD CARRIER ASSERTIONS	FACTS
<i>The legislation "would increase and delay the cost of moving goods by rail"</i>	It's reprehensible of railroad corporations, as franchised public service monopolies, to resort to unsupported economic intimidation tactics to scare their captive customer market in a desperate act to generate support for blocking rational public safety legislation intended to protect our communities and families from railroad catastrophes.
<i>The legislation would "interfere with long-standing collective bargaining agreements" &amp; "These bills would circumvent the collective bargaining agreements between railroads and rail labor unions at both the national and local levels."</i>	"The Federal Railroad Safety Act (FSRA) has been in existence since 1970, and <b>no court has ever ruled that collective bargaining agreements or any rights under the Railway Labor Act preempted a safety law.</b> " Atty. Larry Mann – Principal drafter of the 1970 FSRA preemption provisions (02-15-2019). See e.g. Hawaiian Airlines v. Norris, 512 U.S. 246 (1994)
<i>The legislation is "generally subject to federal preemption."</i>	<b>There are NO Federal Laws or Regulations covering the subject matter of this legislation, therefore no preemption exists! Federal courts have ruled numerous times over the last 100 years, always upholding the right of states to regulate train crew size, rail crew consist laws are NOT preempted!</b>
<i>"They would also create a unique set of regulations in a national system that would impact traffic management of railroad operations across state lines, causing higher costs and delays."</i>	<b>This is an oft-repeated yet completely specious argument. Five states have recently enacted train crewing laws – AZ., CA., WI., WV., on March 21<sup>st</sup> Colorado's legislation was signed into law by their governor.</b> NV & MD both passed crewing laws in 2018 that were vetoed, this year in MD. the bill has been approved again by the legislature and is awaiting action by the Governor, in Nevada the bill is in line for a House floor vote. In Illinois, their crewing bill passed out of the Senate this week. <b>21 other states are considering crewing laws in 2019: DC., AL., GA., IA., ID., IN., KY., KS., MA., ME., MN., MO., NC., NE., NM, OH., OR., PA., TX., UT., &amp; VA. Currently 25 states have active pending legislation</b>  <b>"While the full train crew laws undoubtedly placed an added financial burden on the railroads in order to service a local interest, they did not obstruct interstate transportation or seriously impede it. They had no effects outside the state beyond those of picking up and setting down the extra employees at the state boundaries; they involved no wasted use of facilities or serious impairment of transportation efficiency, which are among the factors of controlling weight here."</b> - Chief Justice Harlan S. Stone – U.S. Supreme Court (1925 1946) e.g. Southern Pacific Co. v. Arizona, 325 U.S. 761 (1945). Stone is explaining why state train crewing laws are NOT federally preempted nor an undue burden on interstate commerce as the author of the Supreme Court's majority opinion decision overturning state train length laws as preempted.
<i>"Adding additional crew members would require rail companies to bring back cabooses, which were eliminated in 1982 through collective bargaining agreements."</i>  <i>"There is no place on the rear of trains today to place a third or fourth crew member."</i>	All unit energy trains today have locomotives positioned at both ends of the train, whichever end happens to be located on the rear at any given time, it is unoccupied. If the UTC were to so order, additional train crew members could easily be assigned to ride in rear locomotives positioned to observe the trailing portion of the train, where they would be in a position to recognize potential problems before it gets out of control, as well as respond to emergency situations. Rail carriers could choose to use cabooses if they so desired. Most major railroads still maintain some cabooses in their fleet of rolling stock for use in local freight service and road switcher service, and as shoving platforms. There is NO cooosie provision in this legislation!  It should be noted the 1982 "agreement" was in fact another federally imposed provision on labor that railroads sought and obtained by declaring a negotiation impasse, the terms were dictated by the subsequent labor hostile Presidential Emergency Board appointed pursuant to the Railway Labor Act.
<i>"This issue should be negotiated between the union and the railroad, not imposed by the government."</i>	Railroads are both monopolies and public utilities. Under current provisions of the Railway Labor Act, rail labor cannot strike. When railroad companies refuse to negotiate on an issue, rail labor has no way to compel the railroads to negotiate, even on train crew size. <b>Government has always had to step in to force railroads to address safety issues</b> all the way back to the Presidency of Grover Cleveland. Unfortunately, the history of the railroads clearly demonstrates that higher profits always reign supreme over safety, even when serious and demonstrated risks are known! <u>Why should any workers, including railroad workers have to enter into negotiations and give up wages or benefits in exchange for a safe workplace?</u> <b>Public Safety and Occupational safety CANNOT be collectively bargained; what price would you place on another person's life?</b>
<i>"This bill would affect too many trains and hurt the agricultural industry."</i>	Provided the Kuderer amendment is adopted, agricultural short lines as well as small short line carriers will be exempt. The amendment would authorize the UTC to determine if, when, and where any additional crew members may be required based exclusively on safety concerns. The Kuderer amendment will broaden protections for agricultural products and other similar commodities.
<i>"Washington's trade-driven sectors – agriculture, natural resources, aerospace, port and maritime activities – would bear these costs and suffer time delays that would undermine their ability to move local products to market. The result would be another setback for the trade sector as Washington's ports face another cost hurdle in their effort to remain competitive in world markets."</i>  <i>"Freight rates will go up."</i>	This is simply another example of the oldest of railroad carrier intimidation playbook tactics they've employed for over 150 years trying to thwart reasonable safety legislation. For over a century, rail carriers frequently generate customer fear of increased rates and threats of service disruptions they can intentionally create, because they have complete control of the rail transport market as a franchised monopoly and the absolute absence of any competition. These strongarm tactics are part of the railroad industries arsenal of ploys they have effectively utilized throughout their history to beat back much of the regulatory and safety legislation they oppose. In this instance they are employing these aggressive strongarm tactics in their last-ditch attempt to block Washington states long overdue enactment of this reasonable public safety legislation.

RAILROAD CARRIER ASSERTIONS	FACTS
<p>"This legislation would drastically slow down the railroad and hurt commerce."</p> <p><b>FABRICATION</b></p>	<p>Two-person minimum crews will remain the standard on nearly all freight trains, with limited reasonable exceptions for agricultural or small short lines. The UTC could require additional crew members on trains through an administrative process. There will be no changes in operational procedures involving train movements unless the commission directs otherwise. Realistically, the current impact of this bill will be minimal except possibly for the most dangerous trains when designated as High Hazard Flammable and containing 20 or more loaded cars of such commodities, or where a serious safety concern exists. This legislation <b>prevents railroads from moving hazardous materials or running 2 + mile long freight trains with just one person on board!</b></p>
<p>"In 2016, railroad accident rates were their lowest in history, down 43 percent since 2000."</p> <p><b>MISLEADING</b></p>	<p>While this carefully selected statistic is factual, it does not reveal the full picture: Also in 2016 on the US railroads there were 760 fatalities, 1,212 reported* derailments – an average of 3.32 reportable* derailments PER DAY, along with 11,475 total accidents and incidents averaging 31.44 railroad safety incidents PER DAY across the nation!</p> <p><b>In 2018, there were 891 fatalities, 1,327 reported* derailments – an average of 3.64 reportable* derailments PER DAY along with 11,897 reportable* accidents and incidents- averaging 32.59 railroad safety incidents PER DAY!</b></p> <p>*In 2016 reportable incidents were those with costs exceeding a monetary threshold of \$10,500.00, in 2018 it was \$10,700.00.</p> <p><b>Our railroads remain potentially very dangerous places, public &amp; occupational regulatory safety oversight are no less necessary today, than in years past.</b></p>
<p>"This bill would adversely affect smaller short-line railroads." "All short line railroads should be completely exempted from the bill!"</p> <p><b>FABRICATION</b></p>  <p><b>Lac Megantic Oil Train Disaster-July 2013</b></p>	<p>Class III short line railroads handling fewer than 20 carloads of high-hazard flammable cars will be <b>exempt</b> from additional crewing requirements. Short lines handling NO hazardous materials on their road may obtain an exemption from the two-person minimum crewing requirements. There are at least 19 short line railroads operating in Washington State on an estimated 1416 miles of track.</p> <p><b>The Lac Megantic Bakken Oil train disaster which killed 47 innocent people and wiped out this Canadian city on Jul 13, 2013, took place on a SHORT-LINE RAILROAD operating with a CREW OF ONE PERSON! Just because a railroad carrier may be a smaller short-line operation does not lessen the potential for catastrophic danger to the public! Legislation requiring railroads to have at least two qualified crew members on all assignments is the absolute bare minimum standard to insure at least some basic measure of safety for the public and railroad workers!</b></p> <p><b>Government records reveal that between 2009 and 2018, there were 324 serious Federal Rail Safety Violations just on the Class III Short Line railroads operating in Washington state. These federal rail safety violations resulted in civil penalties of \$645,931.00 collected from these 16 Class III short line railroad carriers.</b></p>
<p>"Please OPPOSE the three <b>anti-rail</b> bills - HB 1841, HB 1842 &amp; HB 1843."</p> <p><b>FABRICATION</b></p>  <p><b>Alabama Oil Train Fire - 2.7-million-gallon oil spill – Nov. 2013</b></p>	<p><b>This bill prohibits ONE PERSON TRAIN CREWS, an unsafe practice that threatens the safety of our communities, endangers the public and places railroad workers at risk.</b> This legislation empowers our state to require additional train crewmembers, when it has been determined that a serious rail safety concern exists demonstrating a need for additional qualified railroad employees to reduce the risk. This legislation strengthens our states railroad regulatory oversight in an effort to PREVENT catastrophes, fatalities, injuries, and harm. There is nothing anti-rail about it! This is PRO-RAIL!</p> <p>Labeling state railroad safety initiatives as "anti-rail" by Class 1 rail carriers demonstrates their deeply rooted railroad corporate culture, hostile to any public oversight and obsessed with unmitigated gluttonous greed, combined with an institutional self-righteous form of arrogance traceable back to the robber baron railroad owners of the 1860's.</p> <p>History demonstrates this cycle: Railroads knowingly engage in risky practices for lower costs, eventually a major catastrophe results causing immense human suffering and death, followed by public demands for government regulation to remedy the danger. Eventually, as memories of the disaster fades, government oversight wanes and the carriers gradually fall back into low cost riskier practices to maximize profits, until the next catastrophe occurs.</p> <p><b>This legislation seeks to put an end to this cycle by PREVENTING rather than responding after an avoidable catastrophe is PRO-RAIL! Improving and enhancing railroad and public safety, preventing accidents, injuries, fatalities and human suffering is PRO-RAIL!</b></p> <p><b>Please SUPPORT this PRO RAIL SAFETY BILL: HB 1841 with the Kuderer Amendment is reasonable &amp; safe train crew size legislation! Thank you for your consideration!</b></p>

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