



Chairman Green, Vice Chair McClain, Ranking Member Sheehy and members of the House Transportation & Public Safety Committee, thank you for the opportunity to present opponent testimony to HB 186 on behalf of CSX Transportation.

My name is Jim Schwichtenberg and I serve as the Vice President & Chief Safety Officer for CSX Transportation. I began my railroad career with five years on the ground as a unionized railroad employee followed by ten years in various positions with the Federal Railroad Administration (FRA) before returning to the railroad in 2012. I have a combined 21 years of railroad experience; 16 of them directly tied to railroad safety positions.

My testimony today will focus on CSX's safety record as well as the regulatory framework railroads must follow to ensure employee and public safety. My colleague, Rusty Orben, will then discuss issues relating to impacts at public crossings that were raised at previous hearings for this bill.

At the outset, I will state that although this bill is touted as a rail safety bill, the reality is that nothing in this bill will have any impact to public or employee safety. However, before we get into the specifics of the legislation, I would like to offer a little background on CSX and our service to Ohio based industries.

CSX and Ohio

Ohio serves as a critical link to our national rail network. We operate in 23 states east of the Mississippi River and each day, our nearly 21,000 employees move hundreds of trains across 21,000 miles of track to serve thousands of customers representing manufacturing, retail, agricultural and other industries.

In Ohio alone, CSX:

- Employs over 2,150 employees with \$200+ million in compensation
- Maintains 4,000 total railroad track miles*
** More track miles in Ohio than any other state on our network.*
- Maintains over 3,500 at-grade public and private rail crossings*
** In 2018, CSX provided maintenance at over 500 crossings at a company expense of \$7.5 million.*
- Moves over 3 million carloads of freight
- Re-invests nearly \$175 million into the rail network each year

We are proud that CSX was just named to the Jones Sustainability Index (DJSI) for the ninth consecutive year, which illustrates that CSX continues to be a rail industry leader in sustainable and responsible business practices. As the only U.S. railroad to make the DJSI, the company achieved high scores in corporate citizenship and philanthropy; environmental policy and management systems; and human capital development.

Scheduled Railroading and CSX

You may have heard a lot about Scheduled Railroading over the past few months. The fact is that Scheduled Railroading is simply an efficient and innovative way to provide rail based transportation services to customers.

In 2017, CSX began the transformation from a traditional operating model to Scheduled Railroading. The tenets of Scheduling Railroading are simple, but when combined create a powerful and efficient way to improve service to our customers.

In short, the five pillars of Scheduled Railroading are:

- Operate Safely: Maintain 100% compliance with safety and operating rules 100% of the time to protect our employees, our customers' freight, and the communities in which we operate.
- Optimize Asset Utilization: Do more with less by maximizing the value of our assets through increased transit speed and lower dwell.
- Control Costs: Eliminate unnecessary steps that add complexity and costs.
- Value and Develop Employees: Act with integrity, make sure employees know what is expected of them and reward them when they do the right things, and always strive to get better.
- Improve Customer Service: Do what we say we are going to do. Know your customer and understand how you can drive value. Proactively communicate at all times including when we cannot meet our commitments.

Scheduled Railroading, upon full implementation, has enhanced the service product to customers by increasing velocity, improving reliability and limiting dwell time within yards and terminals. Ultimately, by establishing efficient and reliable service to our customers, the value of our service product has improved.

We acknowledge significant growing pains in the implementation of Scheduled Railroading; but we also believe those days are behind us and we continue to seek out ways to improve our service across the network.

A Culture of Safety

You'll note that the first element of the Scheduled Railroading operating model is "Operate Safely." We take that responsibility very seriously within our company, and across the industry.

A review of current year safety statistics shows the dramatic improvement at CSX throughout 2019. The Federal Railroad Association (FRA) compiles data on railroad safety performance, using metrics consistent across the industry. The FRA gathers information on two key metrics: personal injuries and train accidents.

Safety Measure	2018 (Nine Months)	2019 (Nine Months)	Improvement (2018 - 2019)
FRA Personal Injury Frequency Index	1.04	0.80	29%
FRA Train Accident Rate	3.82	2.11	45%

*Personal Injury Frequency Index: FRA-reportable injuries per 200,000 man-hours
FRA Train Accident Rate: FRA-reportable train accidents per million train-miles travelled*

CSX management is bound by the reporting requirements established by the FRA as well as strict company policies. All management employees are tested on these requirements and policies each year and must pass exams to certify their understanding of each. Retaliation for employee injuries is strictly prohibited and managers who are found to retaliate against injured employees are subject to discipline, including termination.

Furthermore, CSX and all other railroads publish an extensive rulebook for employees and managers to hold each other mutually accountable for personal and team safety. But to make it all work, each employee must commit to 100% rules compliance 100% of the time.

Company Responsibilities to Provide a Safe Work Environment

CSX has a responsibility to provide a safe work environment under the Federal Employers' Liability Act (FELA). Provisions within HB 186 relating to walkway requirements and lighting mandates are contrary to federal standards already in place to ensure employee safety.

In fact, a review of CSX injury data in Ohio over the past five years shows that walkway incidents are typically the result of weather, rules violations and/or involve moving equipment. None of these incidents would be prevented by the mandates established in HB 186.

In addition, no incidents were reported during the same timeframe that were directly tied to inadequate lighting for employees. Under FELA requirements, the railroad's responsibility is to provide lighting adequate to perform job tasks, which in most cases can be accomplished via handheld or helmet mounted lighting where more permanent lighting is not installed. Furthermore, lighting mandates under HB 186 would have a negative impact on surrounding neighborhoods and would likely lead to litigation against the railroad or customer owned facility.

Crew Size Mandates and Safety

No empirical data exists to show a correlation between minimum crew size requirements and employee or public safety. This was the FRA's conclusion when withdrawing a regulatory action to compel two person crew standards nationwide. A copy of this regulatory action from earlier this year has been provided to the Committee.

Employee fatigue was also cited in previous testimony as a justification for crew size mandates. The FRA in their study on railroad employee fatigue in fact did find a correlation between fatigue and accidents. However, the study also revealed that railroad workers average more total sleep than the average U.S. working adult when sleep on workdays and rest days are combined. The study also noted that railroad workers have a higher probability for sleep disorders.

The study recommended the best way to combat fatigue is via improved scheduling and education on sleep disorders and treatment options. CSX has made changes to its crew scheduling process since the results of this study were published. Ultimately, the FRA did not conclude that additional crew members were needed to address fatigue issues in railroad employees. A copy of this study has been provided to the committee.

Now, I will turn to my colleague to continue in our statement on HB 186.



Thank you Chairman Green, Vice Chair McClain, Ranking Member Sheehy and members of the House Transportation & Public Safety Committee for allowing me to continue in our opposition testimony to HB 186.

My name is Rusty Orben and I serve as our Resident Vice President for CSX here in Ohio. As part of my role with the company, I interact frequently with your constituents and local officials on issues relating to grade crossings. Thus, I will cover how we coordinate with communities on grade crossing issues around the state.

At-Grade Crossing Conflicts with the Traveling Public

As noted in the recently updated *Ohio State Rail Plan* earlier this year:

Ohio has the fourth largest number of highway/rail grade crossings in the country behind Texas, Illinois, and California. As of 2018, 5,737 at-grade vehicular public crossings are located in Ohio, of which 58% have flashing lights and roadway gates, 32% have passive systems such as crossbucks, and 10% have flashing lights.

The *Ohio State Rail Plan* also reports approximately 5,000 active mainline rail miles across the state as well. By these calculations, Ohio averages more than one public, at-grade crossing per mile of track across the state. Thus, it's clear the issue in Ohio is not that a train will occasionally impact vehicles at a crossing in the normal course of service to customers; rather, the real issue is that there are too many crossings in Ohio to not have an occasional impact for the public and delay response time for emergency responders.

In addition, the sheer volume of at-grade crossings in the state creates a real risk to public safety. The Public Utilities Commission of Ohio (PUCO) issued their *2018 Rail Statistics Report* showing 66 crashes involving eight fatalities in Ohio. Although that figure has improved significantly since when reporting began in 1991 (collisions that year totaled 325 and included 53 fatalities), nearly 75% of the accidents occur at crossings with active warning devices (lights and/or gates). A copy of that report was also provided to the committee.

Train lengths have also increased over time, as technology has improved to enhance and improve service for customers. The U.S. General Accounting Office (GAO) recently completed a study on train length as it relates to safety and other impacts. As part of this study, the GAO reviewed conflicts specifically in Ohio, including past challenges in Mt. Victory. In communication with local officials, CSX looked at a variety of alternatives including rail line and signal relocations to assist in mitigating the impacts at the crossings in Mt. Victory. However, the most efficient alternative was an adjustment in train scheduling and service in the area. This was a change CSX could make because it did not increase cost nor diminish service. A copy of the GAO report issued earlier this year has been submitted to the committee.

When CSX is contacted by a community regarding impacts at crossings due to rail service for Ohio customers, we will discuss their issues and frequently meet with the local officials in their community. CSX will also review our service requirements and operations in the area. In some cases, as noted above, CSX has been able to make operational modifications to assist in mitigating the impacts at public, at-grade crossings. However, those options are limited and the end result is an ongoing and increasing conflict between rail service and the traveling public due to increasing vehicles on the roads and changes in land use around the railroad rights of way. Once again, with the number of crossings in the state, it is inevitable that they will be impacted in the normal course of service to Ohio customers.

Impacts to Public and Employee Safety at Public Crossings

For many years, the railroad industry has sought to limit the public safety exposure in Ohio via a number of measures to reduce the overall number of grade crossings in the state. For example, closing redundant crossings and rerouting traffic to remaining crossings will reduce the risk of a blocked crossing as well as the risk to the motorist for an incident at a crossing.

The railroad industry and CSX also support programs like “*LocalTrax*” in Indiana, which established a competitive, local grant program to eliminate at-grade crossings via grade separation projects. That flexible program provided nearly \$125 million in one-time funding to build grade separations around the state. Michigan is currently following a similar path, as they recently passed a bill unanimously out of the Senate Transportation Committee in September to establish a similar grade separation program.

We believe Ohio should enact a comparable, permanent program to eliminate the conflict between rail service and the general public. Only by eliminating these conflicts will public impacts at grade crossings be remedied permanently.

ODOT and ORDC Study on Rail Crossings

It is important to note that, for the first time in over 20 years the state of Ohio is taking steps to address the conflicts at grade crossings. ODOT and ORDC are currently working on a comprehensive crossing study, which includes involvement from local government groups, first responders, MPOs and the state’s operating railroads. The goal of the study is to establish a first in the nation, formula based approach to assess the relative importance of at-grade public crossings to local communities. Once this process is complete, the plan calls for ODOT and ORDC to select at least two corridors from around the state later this year and apply this new and innovative approach to determine how occupied crossings may impact communities and ways to improve the overall situation.

As you can see, the issues at crossings are long standing and complicated. Options to simply cut the train at a crossing are limited by operational challenges, capacity restrictions and federal regulations. However, if the state is serious about addressing these conflicts, a number of options are available and should be considered to create a better outcome for all.

Thank you again for the opportunity to testify in opposition to HB 186. We are available to answer any questions you may have.