

**SENATOR JOE SCHIAVONI**  
Minority Leader  
33<sup>rd</sup> District



**SENATOR KENNY YUKO**  
25<sup>th</sup> District

**Sponsor Testimony**  
**Senator Joe Schiavoni and Senator Kenny Yuko**  
**Senate Bill 229**  
**Public Utilities Committee**  
**Wednesday, November 18, 2015**

Good afternoon Chairman Seitz, Vice Chair Balderson, Ranking Member Williams, and members of the Senate Public Utilities Committee. Thank you for allowing us to give sponsor testimony on Senate Bill 229, a bill that would require all freight trains to be operated by a crew of at least two individuals.

Even with technology that allows planes to fly themselves, there's a reason why we still have two co-pilots in the cockpit of passenger planes. This bill would apply those same safety standards to our freight trains to help combat conductor fatigue and prevent what could be a disastrous situation if an emergency would occur.

While most freight trains are operated by two-person crews, there are some operators that have chosen to opt for utilization of Positive Train Control technology, along with a single crew member. This is very concerning given that according to the National Transportation Safety Board (NTSB), conductor fatigue was the cause of at least eight major train accidents investigated by the board between 2000 and 2014. NTSB representatives estimate this number could actually be far higher, as fatigue also increases the likelihood of human error, which has been attributed to additional train crashes.

Even though freight train accidents are rare, they can be extremely dangerous, especially in the communities they pass through. On July 6, 2013 an unattended freight train carrying 72 tank cars of crude oil derailed and exploded in Lac-Mégantic, Quebec, killing 47 and destroying the town. The train rolled away from its parked position because the single crew member could not properly secure it alone. And, let's not forget when in 2011 a mile-wide area was evacuated after a freight train derailed in Columbus causing an explosion and fire. These are just two real life examples showing why it is absolutely vital to have two-person crews in order to prevent accidents and derailments, as well as mitigate emergency situations when they do occur.

We want to alert the committee to a possible federal preemption issue regarding this bill. The Regional Rail Reorganization Act of 1973, which is still largely on the books with some amendments, includes a prohibition on any state in the listed region from enacting minimum crew requirements. That region includes Ohio and many of our neighbors. We are examining whether and how that provision applies

today as the original purpose of the resolution to protect the privatization has been satisfied, and the fact that another state in the region, West Virginia, has enacted a two-person crew minimum that has not as of yet been challenged.

We are reaching out to NCSL, the Federal Rail Administration (FRA), and interested parties to fully vet this issue. Since the original passage, both the facts supporting the bill and the standard for the reach of the commerce clause have changed. A report by the FRA also concluded that the underlying purpose of the act has been satisfied and that it is appropriate to return crew size to the purview of the states. Given the strong public safety arguments in favor of this legislation, the action upon it by other states, and admission by the FRA that this role should be returned to the states, there are strong reasons to continue the consideration of this legislation despite the possibility of federal preemption. This is an important safety issue for Ohioans and we should move forward while still exploring the broader context.

Chairman Seitz and members of the committee, thank you for allowing us to testify on Senate Bill 229, legislation that is critical to ensuring the safety of our state's railroads and the thousands of Ohioans that live around them. We would be more than happy to answer and questions that you may have.