

March 7, 2023

The Honorable Stephanie Kunze  
Senator District 16  
Chair of the Senate Transportation  
Committee of Ohio

Subject: Testimony in support of H.B. 23

Dear Chairwoman, Kunze,

I write to you in support of House Bill 23. My name is Clyde Whitaker I am the State Chairman and Director for the International Sheet Metal, Air, Rail Transportation – Ohio State Legislative Board, more commonly known as SMART-TD. Our organization has near 1500 members active in the state of Ohio and upwards of 3000 with retirees. SMART-TD is the largest rail union in the United States representing railroad crafts of Engineer, Conductor, and Yardmasters.

I'm the 6<sup>th</sup> railroader in my family. I began my railroad career 23 years ago in Marysville, OH holding the position of Freight Conductor and Yard Foreman for 8 of those years, the remainder of the time has been as Locomotive Engineer, before transitioning to my current role within the union in May of 2020.

I have been heavily involved within the safety program of the union since 2003. The motivation for my involvement was that on my third week on the railroad I was almost killed due to an unsafe condition. This unsafe condition that almost killed me took several years to remedy. It wasn't until I became an alternate safety chairman for my district in 2007 did my concerns for safety have a voice. We worked with the railroad to erect signage to warn employees of a close clearance.

Reason I mention this story is to bring light to how the railroad operates. They are such a profit driven industry that it took 7 years to erect 3 close clearance signs to warn employees of danger. Now that most railroads are controlled by hedge funds since 2017 the problem is more severe. That is why we need your intervention as lawmakers to push common sense legislation for law.

Railroads are more driven in the name of profit than ever before. They often ignore their very own rules ordering crews to commit unsafe acts or face insubordination charges. The same rules in which, they hold employees accountable for but not management.

The railroads wish to operate with 1 person on a train. However, all railroaders and anyone with common sense can tell you the "Rule of 2", meaning two people in the cab of a locomotive is imperative for safety.

The Conductor or 2<sup>nd</sup> person is the primary person for emergency response in the event of a hazardous materials release on the train, this person is responsible for the oversight of the locomotive engineer, as well proper servicing of the industries along the rail line. In the event of a trespasser vs train, or vehicle vs train, or a mechanical repair needed, or relief of a road crossing is needed, that's the conductor's role to assess the situation for a positive result or coordinate with emergency services.

Should there be only one person on a train. Accidents such as East Palestine may have been grimmer. The engineer cannot safely leave the controls of the locomotive without proper securing of the equipment. Therefore, had one person only been there, that engineer would have been waiting for help more than an hour and would slow response time as well.

This bill maintains and protects the status quo, the "Rule of 2". As we have seen in recent weeks the two people work in tandem to assure the safe movement of the train, protection for the community, and are able to help each other in a time of emergency.

Technology is in place to enhance the human role in life, not replace the human. Daily technology on the railroad fails constantly this ranging from defect detectors, positive train control, and even the end of train device that replaced the caboose in the 80's. This 1980's technology on the rear of every train fails constantly and still has yet to be perfected.

Our organization has been sounding the alarm on safety issues within the industry for some time. I personally have been sounding the alarm since summer of 2022, regarding wayside defect detectors. It was brought to my attention that NS was instructing crews to violate their very own rulebook.

One example given was a train carrying hazardous materials, the train had to stop on a detector due to a technology failure. The detector gave the crew a "not working" message. Which according to the carriers rules the crew was to stop and inspect the train. Instead the Chief Dispatcher ordered the Conductor to return to the locomotive and depart at a lesser speed than normal operations. The dispatcher then stated to the crew that an Amtrak train would inspect them on a roll-by inspection.

Roll-by inspections are carried out at speeds of 10mph or less by a qualified individual. Amtrak conductors are qualified to inspect passenger cars, not freight. The Amtrak train passed the train at track speed of 50mph. Now how can we inspect a train like that?

The Sandusky derailment in October of 2022 is still not cleaned up. This derailment could have been mitigated or prevented entirely. Again, a defect detector reported an issue to the railroad, in which the crew was notified and instructed to keep their train going to a repair area. The safest course of action should have been (1) stop the train, (2) secure the train, (3) move only the locomotives to the inspection/repair site, this limiting the circumstances if a derailment

occurred to only one locomotive vs. an entire train. The next step would have been (4) remove the defective equipment, and (5) return the locomotives to the train and depart.

However, the safest course of action takes time. Time that costs the railroads money, therefore they roll the dice and chance loss of life, loss of property, inconvenience to the community all for profit.

The wayside detector portion of this bill would reduce and help prevent derailments. We have the opportunity to set the standard for the nation as there are no regulations on defect detectors or official thresholds of a hot bearing temperature. Further there needs to be no silent alarms by "Trending detectors". This language in HB 23 addresses this issue and would notify the train crew immediately.

In closing I want to point out the railroads will cry of the claim of preemption. Our union has worked with the lead counsel on several rail safety bills. Lawrence Mann coordinated the very first rail safety bill in the 70's and I have various documents addressing the preemption topic.

If there is no federal law or regulation it cannot be preempted. Our state law makers have a responsibility to provide safety for the public and hold the railroads accountable and that is exactly what this bill will do.

The railroads since the inception of Precision Scheduled Railroading have not acted in good faith, nor have they been responsible for the safety of their employees or communities. Instead the PSR management style has created fear amongst employees, unsafe conditions, and has made upper management reckless in their decision making that endangers all.

As a child growing up in a railroad and union family, I knew what I wanted to be when I grew up. I thought the railroad would be a great place to make a living and a safe place to work.

That is no longer the case, granted a dangerous job, but now more than ever it is not a safe place to work. Since fall of 2020 we have had 2 fatalities, many injuries, and many derailments in Ohio. All of which rail labor has cautioned law makers and suggested legislation to prevent such accidents. We are the professionals that operate the trains not the railroad lobbyist that has never cracked a throttle.

Please stop listening to them and their false narratives. Listen to those that operate and know the real issues. Support this bill and hold the railroads accountable. If, you should have any questions I stand ready to address them.

Sincerely,  
Clyde Whitaker  
SMART-TD  
Ohio State Legislative Board  
Chairman & Director