

Testimony on Substitute House Bill 23  
Midwest & Bluegrass Rail, LLC  
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Chairman Kunze, Vice Chair Reineke, Ranking Member Antonio, and members of the Ohio Senate Transportation Committee, thank you for allowing me this opportunity to offer testimony on Substitute House Bill 23. My name is Brendan Keener, and I am a manager for Midwest & Bluegrass Rail, LLC, which owns and operates local shortline railroads in Franklin, Madison, Mahoning, and Columbiana Counties.

Ohio ranks in the top five among states for railroad infrastructure and activity. According to the Ohio Rail Plan, we have over 5,000 miles of freight rail track in the Buckeye State. Of this, roughly 3,000 miles are operated by the large Class I railroads, while about 2,000 miles are operated by shortline and regional (local) railroads. While some of these may span multiple states, the majority of them are small businesses with less than 50 miles of freight rail track. The two railroads I represent are among these.

While Class I railroads specialize in moving high volumes of freight over long distances, local railroads exist to maintain flexible economical service along the low-density “branch lines” that are the lifeline to isolated communities and rail shippers. Since the rail industry was partially deregulated over 40 years ago, local railroads have had the freedom to save these branch lines from abandonment by implementing creative operating practices that lower costs while still prioritizing service and safety.

In the wake of the unfortunate events at East Palestine, we are running the risk of unintentionally causing harm to local railroads across state and backtracking on the safety and operational gains that have been a highlight across recent years. The proposals in HB 23 will impose significant cost burdens on many railroads, and potentially divert resources away from the points of greatest safety impact.

HB 23 contains a mandate that railroads must have two crew members in the cab of a locomotive connected with a freight or light engine move. This is surprising, considering crew size was not a contributing factor to the incident in East Palestine, nor has data connected crew size to rail safety benefits. More importantly, however, many local railroads operate trains with one crew member in the locomotive cab, and the second leading or following the train in a pickup truck. This second crew member may perform tasks such as protecting at-grate crossings, clearing flangeways for wheels to traverse safely, and aligning tracks and protective devices ahead of a train’s arrival.

These moves are always preceded by a careful safety briefing, and both crew members remain in radio communication throughout the duration. Since local railroads often operate low-density freight lines, we need to make the most of our resources economically available to ensure all our customers receive the safe service they require. The crew size mandate proposed in HB 23 would shackle our ability to provide this customer-oriented service. And while local railroads are always proponents of creating train crew jobs, we’d much prefer to do this organically rather than by way of mandate.

Further, HB 23 contains provisions requiring the installation and maintenance of wayside defect detectors, or “hot box” detectors, on freight rail tracks across Ohio. Overheated bearings (called hot boxes) are a product of pressure and speed. And while it is critically important hot boxes are detected and addresses as soon as they arise, it must be noted that much of Ohio’s freight rail network consists of

low-traffic, low speed branch lines which may only be traversed by one train per day at 10 miles per hour. Hot box detectors are very expensive and complex systems, and the installation of just one of these may realistically consume a double-digit percentage of a local railroad's annual revenue.

The risk of hot box defects is extremely low and the track speeds common on local railroads. On the other hand, local railroads are still heavily focused on safety improvements by aiming infrastructure investment where it counts. Repairs to aging track components, crossing surfaces, and other surface infrastructure produce much more "bang for the buck," and have contributed to an industry-wide reduction in track-caused accidents by 55% since the year 2000.

By targeting the most critical needs for safety improvements and focusing on creative, flexible service to customers, railroads across Ohio have used their resources for good. With accident rates continuing to decline, we ask that you allow us to continue this momentum. The proposals in HB 23 would be as unintentionally harmful, and I fear that hastily implementing them as law would force local railroads like the ones I represent to divert resources from the places of greatest impact to systems which would produce a much lower safety rate of return in their mandated applications.

Railroads such as ours are eager and willing to continue a robust discussion about rail safety and the "next steps" to pursue from here. However, these discussions should accompany a thorough examination of all factors to be considered. Taking a close look at these in the Senate Select Committee on Transportation prior to implementing mandates would be my best recommendation at this time. Between this and the additional information that will come to light from the NTSB in the coming weeks and months, this can be a productive conversation.

However, in the meantime, I respectfully ask that the rail proposals in HB 23 can be removed until they can be examined and addressed thoroughly in a collaborative manner. Thank you for your consideration, and I will be happy to answer any questions that may arise.