



Representative Michele Lepore-Hagan
58th House District

Representative Michael Sheehy
46th House District

Good morning Chair Baldrige, Vice Chair McClain, Ranking Member Sheehy and members of the Transportation and Public Safety Committee. We are pleased to have the opportunity to offer sponsor testimony in support of HB 194, which will require freight trains to consist of at least two crew members.

The purpose of this legislation is simple; to increase the safety of freight trains in our state. This includes the safety for railroad workers, railroad companies, and the surrounding communities that these trains travel through.

Today's freight trains carry extremely dangerous materials, including Bakken crude ethanol, ammonia, liquefied petroleum gas and acids, which may pose significant health and safety risks to communities and our environment in the event of an accident. With thousands of miles of railroad track that crisscrosses the state through wilderness and urban areas, the potential for derailment or other accidents containing these materials is an ever-present danger. Two crew members are vital to ensuring that these trains are operated safely and our communities are secure.

According to the National Transportation Safety Board, engineer fatigue is a serious concern that could, in part, be alleviated with another crew member present. Engineer fatigue was the cause of at least eight major train accidents investigated between 2000 and 2014. In 2015, an American Airlines pilot had a heart attack and died while they were at the controls of the commercial aircraft. It was the co-pilot that was able to safely land the plane. Now, imagine the results if a similar incident occurred with a freight train. Without a required 2nd member, the results could be catastrophic.

Evidence supporting two crew members has been weighed nationally, erring heavily in support of this best practice. In February, 2021, the United States 9th Circuit Court ruled in favor of labor unions representing rail workers and personnel, the Brotherhood of Locomotive Engineers and Trainmen (BLET) and the International Association of the Sheet Metal, Air, Rail, and Transportation Workers (SMART), in *TRANSP. DIV. OF INT'L ASS'N-SMART V. FRA*. This litigation was initiated in response to an order by the Federal Railroad Administration (FRA) purporting to adopt a nationwide maximum one-person crew rule and to preempt any state laws concerning that subject matter, despite it being a known unsafe practice.

In its ruling, the 9th circuit found the FRA Order to be "arbitrary and capricious" and that the FRA's basis for the order – that two-member crews were less safe than one-person crews – "did not withstand scrutiny." Finally, the court found lacking, the FRA's explanation that similar

safety objectives could be achieved with fewer personnel, going as far as saying that it was “not clear, there is a sound factual basis for the order’s suggestion that two-member crews are less safe than one-person crews,” and that it failed to address multiple safety concerns. The complete court opinion is included as an attachment to this testimony.

9 states have laws regulating crew size in some manner. California, West Virginia and Wisconsin require a minimum of two crew members of certain trains; Arizona, California, Ohio and Oregon have “full crew” requirements for certain trains; and Massachusetts, New Jersey and Washington impose other restrictions. We anticipate more states to enact legislation following the *TRANSP. DIV. OF INT’L ASS’N-SMART V. FRA.* ruling.

In Ohio, it is supported by Ohio SMART Transportation Division officials and the BLET. "While the advancement of technology has made the workplace safer, a machine cannot replace the trained eyes and ears of experienced professionals inside the cab of the locomotive," said BLET National President Dennis Pierce in a 2015 press release after California passed their two-person crew legislation. "Technology can only go so far. In the event of an emergency situation, a lone crew member cannot properly assess the situation, secure the train and notify all necessary emergency responders in a timely manner."

As the wife of a 50-year Locomotive Engineer, I worried constantly about him coming home safely. This is a dangerous job and I call upon the members of this committee to support this legislation, so crew members and their loved ones can breathe a little easier knowing additional safeguards are in place.

Once again Mr. Chairman, Vice Chair, Ranking Member, and members of the Committee, thank you for this opportunity to provide sponsor testimony on HB 194. I’d now like to turn it over to my colleague and Joint Sponsor, Representative Sheehy, for additional comment before answering your questions.