



July 18, 2007

The Honorable Frank Lautenberg
Chairman
Subcommittee on Surface Transportation and
Merchant Marine Infrastructure, Safety, and Security
516 Dirksen Building
Washington, D.C. 20510

Dear Chairman Lautenberg:

Thank you for the opportunity to testify before your Subcommittee on rail safety legislation to present the views of transportation labor. We are pleased to respond to your follow-up questions (see attached).

I hope you will contact us if you have any additional questions or if we can be helpful as you craft a rail safety bill.

As always we appreciate working with you and your staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Wytkind", is positioned below the word "Sincerely,".

Edward Wytkind
President

Attachment

cc: The Honorable Gordon Smith
Ranking Member
Surface Transportation and
Merchant Marine Infrastructure,
Safety, and Security Subcommittee

Transportation Trades Department, AFL-CIO

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Edward Wytkind, President • Michael A. Ingrao, Secretary-Treasurer

1. Do you believe the FRA could accomplish what the railroads and labor could not collectively agree upon – that is a fair and effective update to the Hours of Service law? How else do you propose to address employee fatigue in the railroad industry?

It is a well-established fact that fatigue is a cause of accidents in the railroad industry. Labor organizations and government witnesses, including the FRA and NTSB, have testified before Congress on numerous occasions to this end. The core purpose of the FRA is to regulate safety in the rail industry. As such, we do believe it is necessary to grant the FRA the authority to regulate fatigue; however, the statutory protections embodied in the Hours of Service law are important and must be retained. Further, there are several areas which should be addressed immediately. As transportation labor has testified, limbo time should be eliminated in its entirety. Since 1996, the railroad carriers have abused the “off-duty” time spent in transportation to a designated terminal. Similarly, railroad signal workers are regularly forced to work beyond their hours of service limits due to a routinely-abused four-hour “emergency” extension of their 12 hour work day. The four-hour emergency provision should be repealed. Additionally, workers’ rest time should not be interrupted by communications from their employers. Despite the 24/7 operation of the railroad industry, with the advances in technology and communication devices there is no reason railroad workers should not have advance notice of their schedules and be able to plan accordingly for rest, commute and personal time. Adequate work-rest periods must also be established by amending the Hours of Service Act. Finally, workers must not face retribution if they are unavailable to work due to extreme fatigue. Railroads’ imposed attendance policies which require employees to be on-call up to 95% of the time create unsafe conditions on our nation’s railroads and are egregious and unfair to employees.

2. Many railroad workers have lost their lives or been injured working in the rail industry. As this Subcommittee begins to draft legislation on rail safety, what are the most critical issues which must be addressed from the employees’ perspective?

Because the laws governing rail safety have not been reauthorized in over a decade, the safety of railroad workers has been compromised. As I mentioned in my written statement and in those statements submitted by TTD member rail unions, there are a number of issues that must be addressed. Any worthwhile rail safety bill must include strong whistleblower protections for workers; stricter enforcement of rail safety laws and regulations and stronger penalties against companies and employers that violate safety laws; improved and mandatory worker training programs; track safety improvements especially in the area of dark territory; reforms of the Hours of Service laws to eliminate “limbo” time and the abuse of “emergency” time for signal workers, prevent unnecessary communication with workers during rest time, and require adequate work-rest schedules; and prohibit the outsourcing of railroad inspections and operating responsibilities at our southern border.

3. Is the FRA doing as much as it can to prevent harassment and intimidation of employees and to punish those who violate FRA regulations?

No. There continues to be a culture of intimidation and harassment that permeates the railroad industry like no other. It is routine for workers to be “discouraged” from reporting accidents and from seeking appropriate medical attention. H.R. 2095, the Federal Railroad Safety Improvement Act of 2007, includes provisions – which we strongly endorse – to provide strong whistleblower protections for workers who report safety violations on the job (Title II) and

increase enforcement and penalties against employers who violate safety regulations (Title V). Further, we support the provision (Section 606 as amended) in H.R. 2095 which provides for prompt medical attention for an injured worker.

4. Given the expected impending retirements of so many long-time railroad employees, what suggestions do you have for improving training for railroad employees and ensuring an adequately trained rail workforce?

Training programs for basic proficiency and safety as well as security must be made mandatory for all crafts and classes of railroad workers – including contract workers. Historically in the railroad industry it is on the job peer-to-peer training rather than classroom or formal apprenticeship programs that is the norm. As looming retirements of an aging workforce deplete the ranks of experienced workers, the industry must respond by instituting programs to adequately train their workforces. Unfortunately, history also shows that it is exceedingly unlikely that the carriers will institute proper training curricula without a legal directive. Therefore, we urge you to include a training mandate for both new hires and recurrent programs for existing employees (and contract workers) in any rail safety legislation. Further, certification requirements for certain crafts would also improve overall rail safety. Currently, locomotive engineers must be certified. Certification requirements which would mandate competency standards for safety-sensitive groups such as conductors, dispatchers, signal workers, carmen, electricians and on-board personnel should be included in any rail safety bill.