



Brotherhood of Locomotive Engineers and Trainmen Minnesota Legislative Board

A Division of the Rail Conference-International Brotherhood of Teamsters



HF 3499 Maximum Train Length

Background

Recent high profile derailments, including the BNSF derailment in Raymond MN in March of last year underscores the urgent necessity for the state to act on railroad safety in the face of Federal sluggishness and industry self-regulation. Since 2015 train lengths have increased to up to 15,000 feet in many cases. Trains of this size can exceed 30,000 tons. These long trains not only cause congestion in Minnesota's rail network, they will often cut communities in half by blocking crossings for long periods of time, putting citizens at risk by preventing first responder to reach those in need.

Why is HF 3499 Needed

- Longer trains are more difficult to operate due to complexities relating to weight and power distribution in the train that cause excessive forces within the train.
- The Federal Railroad Administration has issued Safety Advisory 2023-03 highlighting these issues.
- Due to their extreme length and weight, long trains increase potential for track and equipment failure such as broken couplers, kinked or broken air lines that can disable the trains brakes, due to their extreme length and weight.
- Long trains often experience loss of communication with locomotives and in the middle and rear of the train due to limits on this technology. When making switching moves crews also experience the inability to communicate with other over railroad radios, putting the workers and public at risk.
- Current railroad infrastructure in Minnesota's rail network does not lend itself to the operation of trains of this size. Other trains are not able to pass when a long train needs to stop for repairs. Terminals and freight yards are not equipped to receive and process trains of this size. This causes congestion in the network, leading to supply chain issues.
- Long trains lead to more blocked crossings.

Why 8,500 Feet Train Length Maximum

- Does not impose radical restrictions on the industry and limits trains to the best operating practices in place today.
- Avoids congestion within Minnesota's rail network due to capacity and infrastructure limitations. Keeps Minnesota's rail network fluid avoiding supply chain issues.
- Reduces blocked crossings.

Can Minnesota Act?

Yes! Neither Congress or the Federal Railroad Administration has regulated train length. Courts have ruled numerous times that subject matter is not preempted when federal regulations merely touch upon that subject matter. The proposed requirements in this bill are not preempted by federal law, because neither Congress nor the Federal Railroad Administration have taken action on these items. Absent the potential for federal preemption or demonstrably harming interstate commerce, states are authorized to enact laws that protect their residents and environment from potential harm by entities including railroads. This is a common-sense solution that protects workers and the public. Minnesota can and should legislate on this rail safety issues.

For more information feel free to contact Joel Mueller with the BLET at 507-420-9012 or email at bletmn@gmail.com



March 8, 2024

Senator Robert Kupek
Representative Jeff Brand

RE: SF 4161/HF 3499—Maximum train length established, and penalties provided.

Dear Senator Kupek and Representative Brand,

The League of Minnesota Cities (LMC) is an association serving 838 of Minnesota's 855 cities through advocacy, education and training, policy development, risk management and other services.

Thank you for authoring SF 4161/HF 3499, a bill that limits the length of trains. Railroads impose far-reaching and long-term impacts on communities. The impact of railroads on communities has become more pronounced in Minnesota as the number and length of trains have increased. At-grade crossings are blocked by both long moving trains and by trains that stop and remain stopped, sometimes for hours at a time. Blocked crossings delay motorists and sometimes prevent passage of emergency vehicles.

The League supports this legislation. Additionally, the League supports requiring railroads to provide timely notice to an impacted municipality when a crossing or crossings will be blocked by a stopped train. Finally, the League supports requiring railroad companies to provide a direct emergency response telephone number for city first responders to call when an at-grade crossing is blocked, and the emergency services need this crossing immediately unblocked to continue their response.

We look forward to working with you to advance this important legislation.

Sincerely,

A handwritten signature in black ink that reads "Anne Finn".

Anne Finn
Intergovernmental Relations Director



Motor Carriers of Railroad Employees

MN Statute 215.0255 is a great piece of legislation for railroad worker safety. Unfortunately, it is disregarded by some of the railroads and not complied with. The proposed language adds penalties to the existing statute which will bring the offending railroads into compliance with Minnesota law.

The job of a railroad worker is incredibly dangerous. This is a well-known fact. What isn't as well known, is that railroad train crews spend a lot of time in deadhead transportation on Minnesota's roadways. These trips are made during all hours of the day and night, and during any type of weather experienced in our state.

When in deadhead transportation, we are also hauling all the gear we need for the duration of our trip. This includes overnight bags, safety gear, work clothes, railroad employee required equipment, and sometimes EOTs (end of train devices) which are large and heavy. Multiply this by two or even three crew members and any vehicle will be getting close to capacity.

Having a separated luggage area to protect riders during an accident is incredibly important. A well-marked vehicle designated as railroad crew transport enhances the safety of trainpersons when getting picked up at odd locations during all hours of the day and night. Hours of service requirements for drivers operating the vehicles so they aren't falling asleep at the wheel. All this and more are included in the existing law, but not followed by some rail companies.

Too many times our members are left standing next to the railroad tracks faced with getting in a compact car hired from a ride share company like Uber or Lyft, overloaded, underinsured, and not suited to safely transport them or they stand there in the dark, in the rain, and face a confrontation with their supervisor while waiting hours for a compliant vehicle. This is not a choice any employee should have to make.

Please support this language being added to HF 3499, making an important Minnesota statute enforceable and stopping a bad practice by the offending railroads.

Reach out to Nick Katich with SMART-TD for more information.
(218) 310-7401 or sld@smart-td-minnesota.org



HF 4357 Wayside Detector Systems

A Wayside Detector is a device placed next to railroad tracks which automatically inspects certain aspects of trains while they are in motion and travelling between origin and final destination. This device has the ability to communicate with train crews via radio broadcast and has a direct link to the applicable railroad dispatching center.

The detector monitors trains for dragging equipment and elevated temperatures in wheels and bearings, which are indicators of imminent catastrophic failure and can cause derailments.

There is a history of successful detector systems being used in Minnesota. Some railroads have voluntarily placed defect detectors along their tracks in a pattern similar to what this bill requires. Many of these are still in place, but internal railroad procedures have been modified to defeat their intended purpose. Detector's sensitivity to defects have been "turned down" and train crews no longer receive defect notifications over the radio triggering immediate inspection. These notifications are instead intercepted by dispatching centers and the information is withheld from train crews. This is a prioritization of train movement over public safety.

While this bill mandates the placement of detectors, the notification requirements to train crews are just as important. **Detectors that are ignored are essentially useless.**

At this time, wayside defect detectors are unregulated by the federal government and states have authority to act. Please support HF 4357.

Reach out to Nick Katich with SMART-TD for more information.
(218) 310-7401 or sld@smart-td-minnesota.org



HF 4356 Yardmaster Hours of Service

A Yardmaster is an employee of the railroad who is in charge of trains, train crews, and inventory within a railyard. This is different from when the trains are traveling between destinations where a dispatching center and automated railcar readers take over.

The Yardmaster coordinates all movements of locomotives, people, and equipment within the yard. This is not a simple task and can be very demanding. They act as a liaison between customers, railroad management, and railroad craft employees. You will normally find them at a desk utilizing the two-way radio, phone, computer chat function, and email, often at the same time.

In the event of an accident or incident in a railyard, the Yardmaster is the first point of contact. They relay information and direct first responders to where they are needed. Yardmasters know where the hazardous materials are in a railyard. They know where the employees are working. This information is fluid and not captured by railroad data centers.

In spite of all this responsibility, Yardmasters do not have a limit on how long they can work each day. They frequently are forced to work 16-hour shifts, multiple days in a row. **This is unheard of in an industry where 12 hours is the max for employees working in safety sensitive positions.**

There are no federal hours of service regulations covering Yardmaster duties.

HF 4356 closes the loophole left in Federal hours of service regulations regarding Yardmasters and we ask you to please support it.

Please reach out to Nick Katich with SMART-TD for more information.

(218) 310-7401 or sld@smart-td-minnesota.org

HF 4356 Yardmaster Hours of Service Facts

- Rail yards are at the center of our towns and communities and every type of freight from anhydrous ammonia to corn syrup may be found in them. A yardmaster keeps track of the inventory within a yard and while an accident involving corn syrup will just make a mess, an accident involving anhydrous ammonia requires a yardmaster who is not fatigued to coordinate emergency response.
- There are no federal laws governing or preempting the hours of service for yardmasters. Yardmasters may perform duties which include them in dispatching service or train employee regulation, but railroad companies in some instances ban yardmasters from performing these duties so they can force them to work 16 hour or longer days. This loophole must be closed and HF 4356 is the correct way to close it.
- The hours-of-service definition in this bill mirrors the industry standard for train service employees and makes sense for yardmasters too.
- Railroad companies have eliminated yardmaster positions in some locations where rail yards exist. The duties have not gone away, but have been added to other yardmasters in remote locations overseeing multiple rail yards.
- Knowing where railcars are within a railyard is not a simple task and is everchanging. For example, from the railroad company's perspective, a hazardous material car is located on track 3. From a community and first responder perspective, track 3 is 2 miles long through the middle of town and the ruptured tank car leaking propane could be anywhere within those 2 miles. The yardmaster knows how to translate railroad locations into locations useful to first responders. In this example, instead of just being told "track 3," the first responders would hear from a yardmaster to "enter the yard at 14th Street and turn north for a 1/4 mile." Fatigue from working multiple unplanned 16-hour shifts in a row would impair the yardmaster's ability to manage a critical situation in which they are a key figure.



Freight Railroads & Detectors

KEY TAKEAWAY

Railroads follow rigorous inspection regulations and leverage well-trained inspectors, sophisticated equipment, and data-driven analysis to identify and address potential issues with equipment and tracks proactively. These efforts will continue to help reduce Class I railroads' train and equipment-caused accident rates in Minnesota and across the network.

SUMMARY

Across the network, railroads employ thousands of well-trained inspectors — qualified per Federal Railroad Administration (FRA) regulations — who monitor and assess the health and safety of the equipment that moves essential goods and materials and the track that spans nearly 140,000 miles.

There are prescribed training standards for any employee who inspects or performs tasks covered by a federal rule, including those who inspect such things as signals, tracks, railcars, locomotives and bridges. In addition to conducting the various inspections required by FRA, railroads have, for decades, voluntarily invested in testing, implementing and advocating for advanced inspection technology to supplement manual inspections. Wayside detectors are a key part of this effort, spanning the network and in place today because railroads voluntarily installed them to improve safety.

HF 4357/SF 3943 MISSES THE MARK ON DETECTORS

- Railroads have thousands of detectors across our networks, including twelve different types of ever-advancing technologies. This bill only considers two of those technologies. All Class Is are working toward a 15-mile separation for Hot Box Detectors on 1) key routes, and 2) where there is not acoustic bearing detection capability or other similar technology. This bill covers the entire rail network, not just key routes, and does not account for any other types of technology.
- Short lines do not have the infrastructure or size to support millions of dollars in new detectors without passing that cost onto their customers: Minnesota businesses, particularly ethanol and other agricultural customers.
- In 2023, all Class I railroads committed to stopping trains and inspecting bearings whenever the temperature reading from an HBD exceeds 170° above ambient temperature. This action establishes a new industry standard for stopping trains and inspecting bearings.

- Railroad safety depends on a team effort. While train crews are highly trained in operating locomotives and navigating the rails, complex detector data analysis requires specialized expertise that train crews simply don't have.
- The FRA has extensive safety equipment regulations and has exclusive purview here, as evidenced by their consideration of new rules for wayside detectors, in the Rail Safety Advisory Committee process. This strong federal oversight is further bolstered by recent legal precedent. President Biden's Solicitor General herself recently briefed the U.S. Supreme Court that even issues lacking explicit federal regulations can fall under federal purview. While regulations on wayside detector placement might not exist yet, historical court decisions suggest such matters would be deemed within the exclusive authority of the federal government.

PROACTIVE INDUSTRY EFFORTS

Analysis of trending data from multiple hot box detectors can reveal a bearing problem before an absolute temperature threshold is reached. While HBDs have been in use for a long time, it is relatively recently that software and data processing have led to the ability to proactively identify bearings that have not yet exceeded absolute temperature thresholds but that, based on HBD trending data, may become problematic and should be addressed. At the end of 2023, following an intensive review of 150 different algorithms by Railinc, railroads finalized a new, industry-wide trending analysis rule.

ACTION IN THIS AREA IS PREEMPTED BY FEDERAL OVERSIGHT

The construction and operation of railroad facilities, and the operation of trains themselves, are part of the laundry list of items that federal law *explicitly* prevents states from regulating.¹ The FRA already enforces a plethora of regulations regarding the inspection and safe operating condition of equipment,² and is actively considering whether to impose additional requirements regarding those wayside detectors referenced in the bill³ with a specific task force within their Railroad Safety Advisory Committee (RSAC).

The FRA RSAC Wayside Detector Task has a listed purpose of creating: "recommendations and/or proposals to update existing regulations and guidance, and/or develop new regulations regarding..." wayside detectors placement and operational response - exactly what this bill contemplates. This active involvement by the FRA strongly suggests that wayside detectors fall within the federal regulatory sphere, not under state control. The FRA has fully occupied the space of regulating equipment health, they are actively considering rules on wayside detectors, and they have left no room for Minnesota to step in.

¹ 49 USC §§ 10501(b)(1), 10102(g).

² See, e.g., 49 CFR §§ 215.1, et seq.

³ FRA Railroad Safety Advisory Committee Wayside Detectors Task available at: <https://rsac.fra.dot.gov/tasks>.



Oppose Efforts in Minnesota to Intervene in Rail Yardmaster Agreements

- HF 4356/SF 4072 would expand the scope of Hours of Service (HOS) laws that apply to railroad yardmaster employees. The purpose of HOS laws "is to promote safety in operating trains by preventing the excessive mental and physical strain which usually results from remaining too long at an exacting task." (*Chicago & Alton R.R. Co. v. United States, 247 U.S. 197, 199 (1918)*).
- Current HOS laws already cover employees directly involved in the movement of trains along the rail line, which includes the train crew (conductors and engineers), dispatchers, certain yardmasters and workers performing signal maintenance.
- A yardmaster is the supervisor of a rail yard. **Unlike ground service employees, the vast majority of yardmasters work a set shift with set days off, already reducing fatigue concerns.** Yardmasters monitor activities of workers in and around yards and coordinate freight car movements for loading/unloading. **When a yardmaster is engaged in an activity that could impact the safe operation of a train, they are already subject to HOS laws.** ([2009 FRA Final Rule: Hours of Service of Railroad Employees; Amended Recordkeeping and Reporting Regulations / Hours of Service Compliance Manual Passenger Operations](#))
 - An FRA study found 99.8% of all train accidents were attributable to personnel other than yardmasters and of the 0.2% attributable to yardmasters, zero were proven to be related to fatigue.
 - Train crews and other employees operating in and around the yard are covered by the current HOS laws as they are directly involved in the safe movement and operation of trains. The yardmaster is in essence a conduit, working from an office and transferring directions and instructions from management to the employees on the ground. In many cases, yardmaster tasks are shared with multiple management employees ensuring the efficient operations of our yards.

As technology advances, fewer and fewer tasks remain the sole function of a yardmaster and this sharing of work and/or automation of work has already positively impacted the workload of yardmasters and will continue to do so.
- Proponents of the bill in Minnesota state the purpose is to protect yardmaster employees — a goal the railroads share. However, applying additional HOS laws to yardmaster employees in additional instances is not the solution. Instead, railroads already follow stringent procedures to ensure a safe work environment for all their employees including company policies, OSHA regulations, and collective bargaining provisions, all of which more directly address the types of concerns raised by the bill sponsors.
- Imposing HOS restrictions on all yardmasters engaged in all activities is impractical and unnecessary. Work schedules and hours of work are already addressed in current regulations and railroad collective bargaining agreements. This bill would not increase the safety or efficiency of our railroads. Instead, this bill would force railroads to hire excess people who would only be used intermittently.
- A proposed state law regulating yardmaster hours of service would likely be struck down as preempted by federal law. First, the Federal Railroad Safety Act already covers safety-critical jobs, and the FRA has already considered and rejected regulating yardmaster hours. Second, such a law would interfere with collective bargaining rights established by federal labor law. Yardmaster hours are a subject of negotiation in collective bargaining agreements (CBAs), and state intervention would disrupt established agreements.



Freight Train Length

KEY TAKEAWAY: Railroads carefully consider several factors when determining train length. Thanks to improved infrastructure, advanced modeling tools, training programs and technological advancements, railroads have safely increased train length while improving overall safety record, enhancing fuel efficiency, and reducing GHG emissions.

BACKGROUND

Railroads have operated millions of trains exceeding 8,500 feet without incident in the past 80 years. The industry's [safety record](#) has improved even though trains have increased in length. Since 2000, based on FRA data, there has been a:

- 30% drop in derailment rates for all railroads since 2000.
- 75% decrease in the hazardous materials (hazmat) accident rate since 2000 based on preliminary data and per carload, is at its lowest rate ever.
- 42% reduction in Class I railroads' mainline accident since 2000.
- 63% drop in the rate of injuries and fatalities for Class I railroad employees since 2000, reaching an all-time low in 2023.

CLASS I RAILROAD TRAIN LENGTHS

What HF3499/SF4161 bill would dub as "long trains" have operated safely for decades in Minnesota, and the industry's safety record has dramatically improved during that period. In 2021, median train length on Class I railroads — meaning half were longer, half were shorter — was 5,400 feet. Just 10% of trains were longer than 9,800 feet and fewer than 1% of trains were longer than 14,000 feet.

RAILROADS ARE COMMITTED TO SAFE OPERATIONS, NO MATTER THE TRAIN LENGTH.

While processes differ slightly by company, railroads consider several factors when determining how rail cars and locomotives are arranged and train length. These factors include but are not limited to commodity mix, terrain, track conditions, layout, congestion, crew training and more.

- **Investments:** Railroads have added new sidings and lengthened existing sidings on routes used for longer trains, which allow trains of various lengths to make way for other trains safely. The locomotive, car fleets, and track have been upgraded by freight rail's capital expenditure programs, averaging well over \$23 billion a year over the last five years.
- **Operations:** Railroads review the characteristics of a route, incorporate lessons learned for the most effective operation of trains on that route, and confirm the safe operation by such measures as supervised pilot runs and modeling simulations that predict the performance of changes to a train's makeup.

- **Training:** Railroads offer training, both simulator-based and on-the-job, for in-cab technologies like energy management systems, PTC, and distributed power. This includes adapting to changes in train composition or a crew's introduction to new territories. The FRA mandates that locomotive engineers demonstrate proficiency on assigned routes, with annual railroad evaluations.

TECHNOLOGY ENABLES LONGER TRAINS. LIMITING THEM WOULD HURT THE ENVIRONMENT.

Technologies like distributed power (DP) allow safe operation of longer trains. DP places locomotives throughout the train, improving control and handling, especially on challenging terrain. "Train builder" algorithms further optimize train composition for efficiency and safety.

Moving a given amount of freight in fewer trains requires less fuel. Because GHG emissions are directly related to fuel consumption, longer trains mean reduced GHG emissions. That's why capping train length is not environmentally sound. AAR analysis of federal data finds: If 25% of the truck traffic moving at least 750 miles went by rail instead, annual greenhouse gas emissions would fall by approximately 13.6 million tons. Emissions would rise further if a cap on train length and the subsequent reduction in rail efficiency caused freight to divert to trucks, which are significantly less fuel efficient than rail.

THE FEDERAL GOVERNMENT OCCUPIES THE SPACE FOR TRAIN LENGTH POLICY.

HF3499/SF4161 would limit the length of a train in the State of Minnesota to 8,500 feet, but the United States Supreme Court held long ago that a similar effort by the State of Arizona was unenforceable.¹ The Supreme Court ruled in *S. Pac. Co. v. Arizona* (1945) citing two key reasons. First, the Commerce Clause of the U.S. Constitution limits state laws that burden interstate commerce. Second, the Court found the Arizona law decreased safety by requiring more, shorter trains, increasing overall traffic.

Congress has further created a preemptive federal regulatory scheme in recognition of the critical role that the national rail network plays in our economy, and with the intent to implement uniform rail operating and safety standards across the country. Congress enacted the ICCTA in 1995 with language explicitly stating that the STB's jurisdiction over transportation by rail carriers and the operation of their networks is *exclusive*.² Congress defined the broad scope of the STB's exclusive authority to include the movement of locomotives, railcars, and equipment, and the operation of a railroad facilities.³

Congress wanted to avoid a patchwork of regulations adopted by individual states with potentially parochial interests that would impede the flow of interstate commerce.

¹ *S. Pac. Co. v. Arizona*, 325 U.S. 761 (1945).

² 49 USC § 10501(b).

³ 49 USC §§ 10501(b)(1), 10102(g).

Oppose Harmful Railroad Regulations that Will Hurt Minnesota Businesses and Consumers

We, the undersigned organizations, write to express our strong opposition to two proposed bills in the Minnesota Legislature, HF 3499/SF 4161 and HF 4357/SF 3943. These bills would impose costly and counterproductive regulations on railroads operating in Minnesota, harming our businesses, the overall economy, and the environment.

Limiting Train Lengths Will Harm Businesses and Consumers

HF 3499 (Brand)/ SF 4161 (Kupec)

- **Inefficiency drives up costs:** Limiting train lengths would force railroads to run more trains to move the same amount of freight. This would not only increase fuel consumption, but also drive up operating costs across the board, including labor, maintenance, and potential infrastructure upgrades.
- **Higher costs passed on to businesses and consumers:** Increased transportation costs for Minnesota businesses using rail freight would inevitably harm their competitiveness, potentially adding cost to nearly everything consumers buy.
- **Creates congestion and delays:** Shorter trains would lead to increased congestion on the rail network, impacting the efficient movement of all freight, including essential goods. These delays would also make it more difficult to expand passenger rail service in the state.

Mandating Wayside Detectors Threatens Supply Chain Efficiency

HF 4357 (Brand)/ SF 3943 (Kupec)

- **Costly mandates without clear safety benefits:** This bill would force railroads to install detectors at arbitrary locations, regardless of demonstrated need or effectiveness. This would divert resources away from other safety initiatives and potentially create unnecessary operational burdens with negligible safety benefit.
- **Disrupts supply chain fluidity:** Increased costs and inefficiencies resulting from this legislation would negatively impact the entire supply chain, harming Minnesota businesses and consumers who rely on the timely and affordable transportation of goods.

Broader Impacts of State-by-State Regulations

- **Federal jurisdiction:** Railroad operations fall under the clear jurisdiction of the federal government, and attempts by states to regulate train length have been invalidated by the Supreme Court. The FRA, in collaboration with rail industry experts and stakeholders, is better equipped to address specific safety concerns and establish standards for train operations and advanced inspection technologies. These bills represent an overreach that would create legal uncertainty and jeopardize supply chain reliability.
- **Harms the environment:** Forcing railroads to adopt less efficient practices would increase greenhouse gas emissions and undermine environmental sustainability goals. In some cases, it could even incentivize a shift of freight to less environmentally friendly transportation modes.

- **Disjointed regulations undermine a national network:** Railroads require a coordinated national framework for infrastructure, safety, and operations. Piecemeal state-level regulations create a patchwork of rules that hinder efficiency, increase costs, and ultimately hurt the competitiveness of American businesses.

We urge the Minnesota Legislature to **reject SF4161/HF3499 and SF3943/HF4357**. These bills would impose unnecessary burdens on a vital industry, causing far-reaching negative consequences for Minnesota businesses, consumers, and the environment. Instead, we encourage policymakers to focus on fostering a collaborative approach that allows for streamlined regulation at the federal level, ensuring railroads can continue to improve safety and efficiency while supporting economic growth.



THE CHAMBER
FARGO MOORHEAD WEST FARGO

ST PAUL

AREA CHAMBER

