



# S.3953-B (Kennedy) / A.1287-B (Magnarelli)

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<b>BILL</b> S.3953-B (Kennedy) / A.1287-B (Magnarelli)
<b>SUBJECT</b> Requirement of Two- Person Crews on Freight Trains
<b>DATE</b> May 17, 2022
<b>OPPOSE</b>

The Business Council opposes S.3953-B (Kennedy)/A.1287-B (Magnarelli), which would require freight rail companies to operate trains with at least two crew members aboard all freight trains in New York State. The legislation purports to provide additional safety measures to railroads that provide a crucial service to the logistics chain.

The nation's top rail regulator, the Federal Railroad Administration (FRA), has analyzed the potential safety impact of crew size on train operations and issued a decision in 2019 to not require trains to have at least two crew members on board. Following five years of intensive study and stakeholder outreach, the FRA's ruling concluded that accident and incident safety data showed that one-person train operations are no less safe than multi-person train crews. Additionally, the FRA stated that they reviewed the aforementioned data over a seventeen-year period and could not identify any accidents involving a one-person crew that would have been prevented by having multiple crewmembers.

Advancements have played a part in the safety accomplishments that have been achieved by one-person train crews. Life-saving technology called Positive Train Control (PTC) has been fully deployed on high-volume freight lines and on some passenger lines as well. PTC systems are designed to prevent train-to-train collisions, over-speed derailments, and unauthorized train movement. It ensures safety by acting as a safeguard against human errors and other potential hazards. It has modernized train staffing operations and has changed the face of work in this sector.

Railroad jobs have evolved over time. Years ago, it was commonplace to have five employees on trains. However, as new technologies like PTC have become available, train staffing operations have modernized, and redundancy has

been eliminated allowing them to operate with one person in the cab of a locomotive. Crew staffing, in particular the numbers of people in a locomotive, has been established through collective bargaining, that has also been used to negotiate wages, benefits and work rules. Attempts to require two-person crews ignore the successful use of single ones through the successful deployment of technology.

The legislation also raises federal preemption issues. As example, in 2019 Illinois defied the FRA and signed legislation into law requiring two-person crews on freight trains. Several railroad companies and associations filed a complaint with the U.S. District Court for the Northern District of the Illinois Eastern Division alleging that the law was preempted by several federal laws, including the Federal Railroad Safety Act. In September 2020, the court granted a summary judgement for the motion made by the railroads including that the law was preempted under the Federal Railroad Safety Act. Illinois appealed this decision and lost again resulting in the Illinois Attorney General did not pursuing the matter further.

The FRA has concluded that federal crew size regulation is unnecessary and any agreements regarding crew size are subject to existing statutory collective bargaining processes under the Railway Labor Act. The two-person crew issue is more properly a subject for collective bargaining which would maintain safety and allows railroads to refashion their workforce.

For these reasons, the Business Council opposes S.3953-B (Kennedy)/A.1287-B (Magnarelli).