

The Railway Safety Act of 2023

Senators Brown, Vance, Casey, Rubio, Fetterman, and Hawley

Congress has the chance to take clear actions to prevent future, man-made rail disasters like the one that devastated East Palestine, Ohio, and the surrounding communities in Ohio and Pennsylvania

Background:

On February 3, 2023, in East Palestine, Ohio, a Norfolk Southern train derailed and 11 tank cars carrying hazardous materials left the tracks and subsequently ignited. While no injuries or fatalities resulted directly from the derailment, the release of hazardous materials into the air and groundwater in East Palestine and surrounding communities in Ohio and Pennsylvania should never have occurred.

No American family should be forced to face the horror of fleeing their homes because hazardous materials have spilled or caught fire in their community. Americans are now rightfully concerned about the safety of railroads carrying hazardous materials as trains travel through their communities.

The Norfolk Southern derailment highlighted many known deficiencies in safety practices in the freight rail industry and the transportation of hazardous materials by rail. This legislation is a response designed to address the factors that caused the preventable, man-made tragedy in East Palestine. To that end, the Railway Safety Act of 2023 will strengthen federal oversight by the U.S. Department of Transportation (USDOT) and its modal administrations: the Federal Railroad Administration (FRA) and the Pipeline and Hazardous Materials Safety Administration (PHMSA) working to prevent and mitigate any future derailments of trains carrying hazardous materials.

What the Bill Does:

The legislation takes a number of key steps to help ensure rail safety for all Americans by:

Enhancing Safety Procedures for all Trains Carrying Hazardous Materials: The bill creates new safety requirements and procedures for all trains carrying hazardous materials, including trains that are not subject to the current regulations for high-hazard flammable trains, a significant deficiency in the current rules. The bill requires emergency response plans and stipulates that rail carriers must provide advance notification and information to each State emergency response commission. Under this legislation, USDOT will also create new requirements to prevent blocked crossings by trains carrying hazardous materials due to railroad delays and address other issues that can prevent or mitigate derailments, including rules for train size and weight.

Preventing Wheel Bearing Failures: The National Transportation Safety Board (NTSB) has determined a wheel bearing was in the final stage of overheat failure before the East Palestine crash. In order to address wheel bearing issues and other mechanical failures, the legislation establishes requirements for the installation, maintenance, and placement of wayside defect detectors, which are automated devices located on the side of tracks that monitor passing trains.

The bill also requires trains carrying hazardous materials to be scanned by hotbox detectors every 10 miles to prevent future derailments related to wheel bearings. In addition, the bill directs FRA to update regulations for train inspections, ensuring that all rail cars on train carrying hazardous materials are inspected by a qualified rail car inspector at regular intervals. Better inspections by trained mechanical inspectors will help to identify wheel bearing problems and other mechanical issues before overheating or, ultimately, derailments occur.

Requiring Two-Person Crews: As trains have gotten longer and riskier to operate, railroads have attempted to make crews smaller, operating trains with just one crew member. This cost-reduction approach eliminates necessary safety margins and redundancies, off-loading risk onto local communities, with potentially tragic results. While the Norfolk Southern train in East Palestine, Ohio had a three-person crew, that is not the norm. Therefore, the legislation creates a permanent requirement for railroads to operate with at least two-person crews, ensuring that sufficient, well-trained railroad staff are available for safe operation and response in the aftermath of any derailment.

Making Rail Carriers Pay for their Wrongdoing: Too often, corporations treat civil penalties for actions that harm workers and communities as the cost of doing business. This bill increases the maximum fine that USDOT can issue for safety violations from \$225,000 to 1% of a railroads annual operating income.

Supporting Communities Impacted by Rail Disasters: When a derailment occurs, local law enforcement and emergency first responders are the first people on the scene. It is essential that they have training that can help them safely manage a potentially toxic and deadly crash scene, and this legislation does so by requiring the railroads to fund their training. Specifically, the bill increases HAZMAT registration fees paid by Class I railroads to fund grants for training emergency responders.

Investing in the Next Generation of Safety Improvements. Professional train crew members and qualified mechanics – working together with wayside defect detectors and new tank cars – can help ensure rail safety. Advances in wayside detection and new tank car designs can help prevent future tragedies involving hazardous materials. The bill provides \$22,000,000 to FRA for research and development grants for wayside defect detectors, and \$5,000,000 to PHMSA for expenses related to the development of stronger, safer, tank cars, valves for tank cars, and other tank car safety features. Together, these commonsense measures can help prevent future derailments involving hazardous materials around the country.

Congress must act to ensure that a tragedy like the one the communities of East Palestine, Ohio, and Darlington Township, Pennsylvania are still living with doesn't impact another community. By passing the Railway Safety Act of 2023, elected officials can come together to help protect they people they serve and hold rail corporations like Norfolk Southern accountable.