

# ISSUE BRIEF

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## Railroads and Regulation: Why Washington Should Not Dictate the Size of Train Crews

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How many railroad workers does it take to operate a freight train? Railroad unions and some in Congress say the answer is two. But with today's technology, the answer is often one. In a few years, it might be none at all. That would be good news for American workers, as well as for shippers and consumers.

The debate over train crew size—like most of the thousands of debates occurring in Washington, DC—is raging without much public attention beyond the industry that is directly involved. But the outcome of the debate will affect Americans throughout the economy. The debate is an echo of the landmark deregulation of the railroads a generation ago, as well as a foretaste of the brewing debate over technology and employment across the economy.

### **Overregulation: Learning from Previous Mistakes**

Railroad unions and some Members of Congress, ostensibly for safety reasons, are advocating a two-person crew minimum. But the push for federal mandates on the size of train crews is more about railroad jobs than about safety. Railroad workers are understandably worried about the job losses that a move to one-man crews would entail. But it is not clear that a shift to one-man crews would reduce the

number of jobs for the railroad, or for the economy as a whole.

Minimums for crew size—as well as other mandates being considered—could be a first step in a return to the railroads of the 1970s, when the industry, then under comprehensive public utility-style regulation, was collapsing from overregulation and neglect. A return to that era would be disastrous for both railroads and their employees.

Once the giants driving the American economy, railroads declined during the better part the 20th century. The days of the “Robber Baron” were over. The rail industry was locked in a competition with truckers, who had more flexibility than the rails, and operated on government-built highways to boot.<sup>1</sup>

Railroads, by contrast, had to build and maintain their own infrastructure and were subject to comprehensive regulation of every action.<sup>2</sup> This left the railroads inefficient, and their networks obsolete. With shipping volume declining, they cut back on routes served, leading even more shippers to flee the market. As the traffic on their networks shrank, so did the number of railroad jobs. The total number of people working on the railroads had plummeted from 1.5 million in 1947 to 220,000 30 years later.<sup>3</sup> Many observers expected the freight rail business to disappear entirely.

By the 1970s, railroad infrastructure was literally crumbling. Famously, railroad statisticians added a new category of accident—the “standing derailment”—in which a railroad car spontaneously falls over in the railyard from rust or decay.<sup>4</sup>

Even the largest railroads teetered on the edge of bankruptcy. The two major railroads of the Northeast—the New York Central and the storied

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Pennsylvania Railroad—merged in 1968 to become the Penn Central, only to declare bankruptcy eight years later. The assets of the Penn Central were then acquired by the United States government, rechristened Conrail, and operated as a government enterprise until 1987.<sup>5</sup>

In 1980, however, a bit of a miracle occurred. Congress enacted the Staggers Rail Act, largely deregulating the railroad industry. That, in turn, allowed the railways to cut costs and improve service. Within a few years, railroad traffic stabilized, and the red ink subsided.<sup>6</sup>

### **Mandatory Crew Minimums Are Unnecessary**

The gains made by the railroad industry could be lost if Congress slaps new regulations on the railways. Among the dangers is the proposed federal minimum on the size of train crews. In Congress, Representative Don Young (R-AK) has introduced H.R. 1748, the Safe Freight Act, which would require freight trains to have at least two crew members in the cab of the locomotive at all times.<sup>7</sup> One of these would have to be a certified train engineer, the other a certified conductor.<sup>8</sup> In addition, a regulation proposed in 2016 by the Obama-era Federal Railroad Administration (FRA) would mandate two-man crews without any new legislation.<sup>9</sup> The proposed rule is still pending at the FRA.<sup>10</sup>

But critics of these measures argue that new technology has made two-person crews unnecessary. Specifically, the railroads have been installing positive train control (PTC) systems on their networks. PTC systems automatically slow down, stop, or divert trains that are headed for a crash, much like the automatic avoidance systems now found in many cars. The technology is still advancing. Just as drivers may be riding in completely autonomous vehicles in the near future, freight trains could someday operate with no crew at all.

Even before the arrival of PTC technology, one-person locomotives were in use by many railroads. Among these: Amtrak and commuter lines, both of which are passenger railroads for which an accident presents a greater risk to human life than on freight rail.

The safety record of these one-man train crews is good. Despite the calls for regulation, there has been no evidence that one-man crews are less safe than two-man teams. In its 2016 proposed rule, the Federal Railroad Commission admitted it had no “reliable or conclusive statistical data” to suggest any safety issue with solo trains.

Rather than protecting safety, it is apparent that the proposed one-man-crew ban is aimed at protecting railroad jobs. This, after all, is the industry that invented the term “featherbedding,” and kept “firemen”<sup>11</sup> and cabooses on trains long after either served any useful purpose.

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1. The trucking industry was itself subjected to Interstate Commerce Commission regulation in 1935 by the Motor Carrier Act.
  2. This regulation was imposed in 1880 by the Interstate Commerce Act.
  3. RailServe.com, “U.S. Railroad Employment and Productivity Statistics,” <https://www.railservice.com/> (accessed April 29, 2019).
  4. Association of American Railroads, “A Short History of U.S. Freight Railroads,” May 2018, <https://www.aar.org/wp-content/uploads/2018/05/AAR-Short-History-American-Freight-Railroads.pdf> (accessed April 29, 2019).
  5. In 1987, Conrail was returned to the post-deregulation private sector. For more details, see James L. Gattuso, “Giving Conrail a Green Light,” Heritage Foundation *Issue Bulletin* No. 213, February 15, 1985. <https://www.heritage.org/transportation/report/giving-conrail-green-light>. In 1998, Conrail was sold to the Norfolk-Southern Railroad and CSX railroad, and was split between the two.
  6. For more on the decline and rise of the freight railroad industry, see James Gattuso, “The Consumer Rail Equity Act: Returning to Dark Days of Regulation,” Heritage Foundation *Issue Bulletin* No. 129, June 5, 1987, [http://thf\\_media.s3.amazonaws.com/1987/pdf/ib129.pdf](http://thf_media.s3.amazonaws.com/1987/pdf/ib129.pdf).
  7. A similar “companion” bill was introduced in the Senate in 2018 by Heidi Heitkamp (D-ND). Heitkamp lost her re-election bid last year, however, and is no longer in the Senate. It is expected that another Senator will assume the lead on this issue; who that will be and when that will happen is not yet clear.
  8. On a freight train, a conductor is broadly responsible for the operation of the train, as opposed to an engineer, who runs the locomotive.
  9. Federal Railroad Administration, “Train Crew Staffing,” Notice of Proposed Rulemaking, *Federal Register*, Vol. 81, No. 50 (March 15, 2016), p. 13918, <https://www.federalregister.gov/documents/2016/03/15/2016-05553/train-crew-staffing> (accessed April 29, 2019).
  10. *Ibid.*
  11. A “fireman” in railroading is a crewman tasked to shovel coal in to the boiler. After the switch to diesel locomotives, coal shoveling was no longer needed. But firemen remained onboard for decades afterward.
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It not surprising that railroad workers would like to preserve their jobs. But railroad-employment reductions from reducing train crew sizes could quite possibly be more than offset by the number of jobs saved or created by a more competitive and efficient network.

Even if railroad employment is reduced, a reduction in crew size would likely create more jobs than it eliminates in the economy as a whole, as millions of employees in the sectors that depend on available and affordable ground transportation benefit from the lower costs. The number of jobs on trains may decrease somewhat, but farmers, coal miners, and steel workers would benefit.

## Conclusion

Advances in technology have made it possible for freight trains to run safely and efficiently with only one crew member on board with no reduction in safety. U.S. railroads should not be barred from taking advantage of new technology. The benefits will go not just to railroad companies, but to the farmers, miners, and steelworkers whose products will incur lower transportation costs than they otherwise would. This means more—not fewer—jobs for American workers.

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