

March 16, 2023

Dear Members of Congress:

We write to urge you to support the Railway Safety Act of 2023.¹

Like many conservatives, we were shocked by the tragic circumstances of the train derailment in East Palestine, Ohio. It's hard to imagine how such a thing could happen in the United States of America. Our citizens are fortunate enough to largely take clean air and clean water for granted. That's historically been a bipartisan policy choice – we've decided as a nation that we won't accept anything less. And yet in the blink of an eye these essential, life-providing resources were jeopardized for the citizens of East Palestine and the surrounding area.

Perhaps if this was merely an isolated incident, we could chalk it up to bad luck and move on, but it wasn't an isolated incident. The fact that there are more than 1,000 train derailments in this country each year points to the existence of a significant market failure in the hazardous materials transportation regime – one that needs to be corrected as soon as possible. While conservatives have long opposed regulation intended to coerce businesses to achieve unrelated policy goals, they have also long maintained that there is a place for protections to ensure the proper functioning of the marketplace, such as antitrust enforcement or corrections to externalities.

One classic instance is that of pollution. While it may technically be “market efficient” for a single firm to dispose of hazardous waste in the cheapest manner possible, the roll call of communities immiserated by toxic waste — from Love Canal, New York, Gratiot County, Michigan, Times Beach, Missouri, to East Palestine, Ohio — suggest that this approach is far from efficient for the nation at large. Indeed, firms like Norfolk Southern, the transportation company at the center of the East Palestine disaster, are imposing an invisible (but not negligible) social cost on these communities.

To address this issue, Senators J.D. Vance, Josh Hawley, and Marco Rubio, along with Democrats, have introduced legislation aimed at dealing with derailments of trains transporting hazardous materials by implementing the following common sense requirements that deal directly with what happened in East Palestine:

1. **Route notification and notification of cargo for first responders.** *First responders in the East Palestine situation report that they were unaware of the contents of the tank cars in the derailment.*
2. **Wayside bearing defect detectors every ten miles.** *The National Transportation Safety Board preliminary report states that over a twenty-mile stretch of railway, the Norfolk Southern train at issue in the East Palestine case suffered a catastrophic journal bearing failure that may have been detected sooner had there been wayside bearing defect detectors every ten miles instead of twenty miles.*

¹ <https://www.vance.senate.gov/wp-content/uploads/2023/03/Railway-Safety-Act.pdf>

3. **Two-man crewing requirements and minimum inspection times.** *In both the Lac-Megantic derailment which killed 47 people in Canada, as well as the serious train collision at Casselton, North Dakota, the numbers of crewmembers were a crucial element. In the event of an emergency, having one individual remain in the cab, and other to manipulate railcars has had important safety upsides.*
4. **Increased fines and penalties.** *Fines are too low to deter major violations, as there were 3,460 cases with civil penalties initially assessed by the FRA in FY21, and only \$17 million in fines initially assessed in FY21.*

Some misguided conservatives are going out of their way to defend the railroad industry, which has a long track record of opposing conservative values. The CEO of Norfolk Southern stated recently, “I feel very strongly about diversity and inclusion, not only as a personal value but also as a corporate value. Diversity and inclusion are keys to our corporate success and to our bottom line.”² CSX is a supporter of the Paris Climate Agreement and a donor to the Congressional Black Caucus Foundation, an entity with a long history of corruption and embracing far-left positions.³ In 2020, Union Pacific’s CEO embraced the George Floyd riots and condemned our nation, insisting that the “racial injustice within our country deeply saddens and sickens me as an American, a father, and a business leader.”⁴ The railroad also proudly touts its “equity policies around pay and affirmative action.”⁵

Conservative legislators have a choice. Should we do the bidding of a massive, corrupt, woke industry? Or should we stand with the American people who expect us to fight for railway safety and defend our pristine environment from bad actors who would do it harm?

Thank you for your consideration of the Railway Safety Act.

Sincerely,

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American Principles Project

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² <https://www.ceoaction.com/actions/inspire-summit/>

³ https://www.csx.com/share/wwwcsx15/assets/File/About_Us/Responsibility/2021-CSX-ESG-Report-final.pdf

⁴ <https://www.up.com/aboutup/community/injustice/index.htm>

⁵ https://www.up.com/aboutup/community/inside_track/dei-journey-never-ending-210525.htm

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