

**Statement of Richard F. Timmons, President
American Short Line and Regional Railroad Association**

Before The

U.S. House of Representatives

**Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines and Hazardous Materials**

Wednesday, January 31, 2007

2:00 Pm

Room 2167, Rayburn House Office Building (HOB)

I appreciate the opportunity to appear this afternoon on behalf of the American Short Line and Regional Railroad Association (ASLRRA). Nationwide there are over 500 short line railroads operating nearly 50,000 miles of track and employing over 23,000 individuals. Twenty five of the 30 members of this subcommittee have one or more short line railroads operating in their district.

As has been said many times this afternoon there is nothing more important to the success of railroading than safety. For short lines it is not only good business but it is personal. We are small companies where every individual is well known to the other.

Mr. Hamberger recited the considerable improvement in the railroad industry safety data and I am pleased to say the short line industry has contributed to that improvement. According to FRA data in the five year period 2001 to 2005 the short line industry's total number of injuries has declined by 26% and through October of 2006 by 40%.

In the brief time I have let me make three points.

First, as this is a hearing concerning the reauthorization of the Federal Rail Safety Program, I should start by saying that short line railroads are generally very satisfied with the operation of the Federal Rail Safety Program. We believe the law itself and the administration of that law by the Federal Railroad Administration has made a significant contribution to the safety of the industry. Having said that, we do disagree with the FRA's newly proposed revisions to the schedule of civil penalties which will approximately double fines for safety violations. We have submitted comments on this subject to the FRA and I will not repeat those here other than to say that we believe the agency should adopt a sliding scale of penalties. Track violations penalties, as an example, could be based on track classification. Other categories of violations could similarly have an adjustable scale. Our railroads operate at much lower speeds and much lower densities and thus have a much lower accident severity risk than the Class I railroads. To double fines under the current system is unreasonable and would impose a significant hardship on small railroads that is unjustified considering our operations and safety record. Additionally, a fine doubling policy clearly deviates from the FRA's policy statement concerning small entities in 49 CFR Part 209, where the FRA recognizes the special needs of the Class II and III railroads.

Second, we believe that the most important thing a short line railroad can do to improve safety is to improve its track. As you know the short line industry inherited the worst of the nation's track in FRA structure when we began taking over these properties in the 1980's. Today short lines plow almost a third of their annual revenues back into in structure improvements. That is more than any other industry in the country. Beginning in 2005 we have been able to increase

that investment thanks to the rehabilitation tax credit that so many of you were helpful in securing. As our track improves, our safety record will improve and we think the statistics I mentioned bear that out. Our three year tax credit expires at the end of 2007 and we are seeking a three year extension of the credit. Twenty five of the 30 members of this subcommittee were co-sponsors of our original tax credit legislation and we hope you will do so again. Of the remaining six, five are new members and did not have an opportunity to co-sponsor and we hope they will consider doing so this time.

Third, I would like to briefly address the issue of hazardous material. Almost to a company we would prefer to give up this traffic. We cannot adequately insure for the risk and for most short lines a single accident means going out of business. In the majority of cases the short line does not even set the rate so there is virtually no relationship between what we earn and the risk we assume. Compounding the rate inadequacy problem is the fact that for short lines the cost to insure one car is just as much as 100 cars.

I fully understand how difficult this issue is for congress. There is strong special interest opposition to a meaningful cap on liability. Neither the producers nor the end-users are willing to pay the real price associated with this transportation and would vigorously and probably successfully oppose any such proposal in congress. But the fact remains that some day there will be an accident on a short line railroad and that railroad will be put out of business. When that happens many more short line railroad owners will decide the risk is too great and will throw in the towel to the detriment of the communities and shippers they serve.

We believe that a realistic solution to this problem will involve some combination of a limit on liability, a greater assumption of the cost by the producers and end-users and perhaps some kind of government insurance program that assumes the risk above a certain level. As Mr. Hamberger has suggested some type of Price-Anderson mechanism may be the most reasonable solution. For that to work for short lines however there needs to be some kind of bridge between our company insurance and what will undoubtedly be a much higher liability limit under the new mechanism.

I strongly urge this committee to vigorously pursue a solution before not after a crisis occurs. The short line industry certainly stands ready to make whatever modest contribution we can to crafting that solution.

I appreciate the opportunity to appear here today and would be pleased to answer any questions you might have.