



**BUILDING AMERICA®**

February 11, 2020

House Committee On Energy and Environment

Re: Opposition to Oregon HB 4105 – Vapor Pressure and New Rail Infrastructure

Chair Power and members of the committee,

Union Pacific Railroad is committed to the safe movement of all products our customers ship, including crude oil and other fuels. We know that a healthy environment is an essential foundation for a strong country – and a vibrant economy. Our company focus involves protecting and strengthening this foundation while fulfilling our common carrier obligation to safely move the products our customers need.

I write today in opposition to HB 4105. We believe that key provisions of the bill are preempted by federal law, and that enactment will simply engender costly and time-consuming litigation.

HB 4105 would impose an undue burden on interstate commerce. Indeed, last year Montana and North Dakota applied to the Pipeline and Hazardous Materials Safety Administration (PHMSA) for a preemption determination after Washington passed WA SB 5579. North Dakota and Montana both argue the new law “amounts to a de facto ban” on a lawful commodity. In fact 10 attorneys general signed a letter echoing North Dakota’s and Montana’s concerns.

Setting an arbitrary vapor pressure standard of nine pounds per square inch (psi) is highly problematic. Such a standard assumes the psi of oil, gas or other commodities in rail cars remains the same whether the car is in warmer Eastern Oregon or the Cascade Mountains’ cooler altitudes. Vapor pressure varies substantially across geographies and climates.

In addition, the federal PHMSA packing rules occupy the field for high-hazard flammable trains; in adopting those rules, PHMSA declined to impose a pretreatment or vapor pressure requirement. Thus PHMSA regulations preempt state laws that would regulate the conditioning or pretreatment of these commodities.

Section 2 of the bill will likely have a negative impact on the construction and maintenance of rail infrastructure used in passenger rail service as well as freight customer shipments. Regulations regarding rail infrastructure construction present a host of legal pitfalls that could inadvertently impact past present and future state rail investments.

Ensuring that all tank cars travel safely is our company’s top priority. Though the tank cars we move are not owned by Union Pacific, we do everything we can to secure cars that carry hazardous materials. We have long pushed for more aggressive tank car safety standards and supported ongoing research to further improve tank car design. We have and will continue to work cooperatively with Oregon’s safety and emergency response agencies, but HB 4105 is not the answer.

Sincerely,

Aaron Hunt