



STATE OF MAINE

DEPARTMENT OF PUBLIC SAFETY

JANETT T. MILLS
GOVERNOR

MICHAEL J. SAUSCHUCK
COMMISSIONER

TO: Joint Standing Committee on Judiciary

From: Paul Cavanaugh, Esq

RE. LD 1937 – An Act to Remove the Confidentiality of the Transportation of Hazardous Materials by Railroad Companies

Date: May 30, 2023

Senator Carney, Representative Moonen and other distinguished members of the joint standing committee on Judiciary. The Department of Public Safety is *opposed* to LD 1937 – An emergency Act to remove the confidentiality of the Transportation of Hazardous Materials by Railroad companies but does wish to mention some safety concerns.

In apparent response to the recent train derailment on April 15, 2023, near Rockwood and Jackman, the bill would remove a paragraph from Maine's Freedom of Access Act which currently defines certain records of hazardous materials transported by rail, the routes of that transportation, and the frequency of that transportation as not public records. The removal of 1 MRS §402(3)(U) would make those records public and available to anyone on request. Currently, §402(3)(U) provides that records relating to the discharge of hazardous material are public after any discharge.

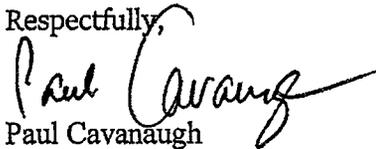
We agree it is appropriate for the public to have access to information regarding any hazardous materials that have been discharged (spilled) to help first responders be safe,

triage the initial response to any discharge, and the manage the long-term response and clean up. We are however concerned about creating a "soft target" for people intent on causing harm, disrupting national transportation infrastructure, or any other mischief if the routes and frequency of shipments are public records. One only need google train attacks or terrorist attacks on rail shipping to see the very real possibility of such an attack here.

Had this bill been enacted prior to the recent derailment, it would not have prevented the derailment. The identification of the hazardous material released was immediate and a comprehensive response put in place. The removal of §402(3)(U) could create an argument that the records relating to the discharge are not a public record - since the law now defines them as public but that provision would also be removed. Any debate about the public nature of such information or any delay in providing that information would likely put first responders, the public and our natural resources at greater risk.

Other State agencies more familiar with railroad management than is the Department of Public Safety will aid the Committee in reviewing this bill. We are opposed based on public safety concerns, as that is our area of operation, not railroad management. Thank you for considering our thoughts.

Respectfully,



Paul Cavanaugh

STAFF ATTORNEY, MAINE STATE POLICE

LEGISLATIVE LIAISON AND COORDINATOR, DEPARTMENT OF PUBLIC SAFETY

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