

INTERIM STUDY PROPOSAL 2019-052

State of Arkansas

92nd General Assembly

Regular Session, 2019

A Bill

HOUSE BILL 1961

By: Representatives Richardson, Jett, Tosh, Miller, V. Flowers, Godfrey, Scott

By: Senator L. Chesterfield

Filed with: House Committee on Public Transportation

pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO REGULATE THE LENGTH OF RAILROAD TRAIN
OPERATED ON A MAIN LINE OR BRANCH LINE; TO DECLARE AN
EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE THE LENGTH OF A RAILROAD
TRAIN OPERATED ON A MAIN LINE OR BRANCH
LINE; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 12, is amended to add an
additional subchapter to read as follows:

Subchapter 11 – Railroad Train Operating Length

23-12-1101. Legislative intent.

The General Assembly finds that:

(1) There are currently no
regulations that specifically govern the length of railroad trains;

(2) Railroad companies across the
country are increasing the length of their railroad trains as a way to REDUCE
expenses;

(3) The Federal Railroad

1 Administration and other federal agencies have investigated whether
2 increasing the length of railroad trains is a safety risk;

3 (4) The operation on a main line or a
4 branch line of a railroad train that is excessive in length exposes the
5 public to unnecessary dangers and may cause disruptions of commerce; and

6 (5) The regulation of railroad train
7 length is necessary for public safety.

8
9 23-12-1102. Definitions.

10 As used in this subchapter:

11 (1) "Branch line" means a secondary railroad line that branches
12 off from a main line;

13 (2) "Main line" means a Class I railroad documented in current
14 timetables filed as required under Federal Railroad Administration, United
15 States Department of Transportation, 49 C.F.R. § 217.7, as in effect on
16 January 1, 2019, that:

17 (A) Transports five million (5,000,000) or more gross tons
18 of railroad traffic a year; or

19 (B) Is used for regularly scheduled intercity or commuter
20 railroad passenger service, or both, that does not include tourist, scenic,
21 or historic railroad excursions;

22 (3)(A) "Railroad" means a form of nonhighway ground
23 transportation that runs on rails or electromagnetic guideways within this
24 state, including without limitation:

25 (i) Commuter or other short-haul railroad passenger
26 service in a metropolitan area and commuter railroad service; or

27 (ii) High-speed ground transportation systems that
28 connect metropolitan areas, without regard to whether those systems use new
29 technologies not associated with traditional railroads.

30 (B) "Railroad" does not include rapid transit operations
31 in a metropolitan area that are not connected to the general railroad system
32 of transportation;

33 (4) "Railroad company" means all corporations, companies, or
34 individuals which own or operate any railroad in this state, whether as
35 owner, contractor, lessee, mortgagee, trustee, assignee, or receiver, and
36 their officers and agents; and

1 (5) "Railroad train" means one (1) or more locomotives with or
2 without cars, requiring an air brake test in accordance with 49 C.F.R. § 232
3 or 49 C.F.R. § 238, as in effect on January 1, 2019, including without
4 limitation:

5 (A) A single locomotive;
6 (B) Multiple locomotives coupled together; and
7 (C) One (1) or more locomotives coupled with one (1) or
8 more cars.

9
10 23-12-1103. Maximum railroad train length.

11 A railroad train operating on a main line or branch line shall not
12 exceed eight thousand five hundred feet (8,500 ft.) in length.

13
14 23-12-1104. Civil penalty – Negotiation.

15 (a) The Arkansas Department of Transportation may impose on a railroad
16 company an administrative penalty of:

17 (1) Not less than five hundred dollars (\$500), nor more than one
18 thousand dollars (\$1,000), per foot over the maximum railroad train length
19 authorized under § 23-12-1103; and

20 (2) Not more than two hundred fifty thousand dollars (\$250,000)
21 if a violation of § 23-12-1103 causes death or injury.

22 (b)(1) The amount of the administrative penalty under this section may
23 be negotiated between the railroad company and the department.

24 (2) In determining the amount agreed upon in negotiation, the
25 Director of State Highways and Transportation may consider:

26 (A) The nature, circumstances, extent, and gravity of the
27 violation; and

28 (B) With respect to the violator:

29 (i) The degree of culpability;
30 (ii) Previous violations;
31 (iii) The ability to pay the penalty imposed; and
32 (iv) The ability to continue to do business if the
33 penalty is imposed.

34 (c) The imposition of administrative penalties shall be conducted
35 under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

1 (d) The penalty collected under subsection (a) of this section shall
2 be used by the department for highway and infrastructure projects.

3 (e) A penalty imposed under this section, if not promptly paid to the
4 department, shall be referred to the Attorney General for collection in
5 district court.

6
7 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that maintaining safe railroad
9 operating practices is necessary for public safety and commerce efficiency;
10 that maintaining limitations on railroad train length will ensure the safety
11 of the citizen of Arkansas; that a railroad company's desire to reduce costs
12 is not more important than the safety of the public and of railroad
13 employees; and that this act conveys the importance of transportation
14 infrastructure, uninterrupted commerce, and the state's duty to protect its
15 citizens. Therefore, an emergency is declared to exist, and this act being
16 immediately necessary for the preservation of the public peace, health, and
17 safety shall become effective on:

18 (1) The date of its approval by the Governor;

19 (2) If the bill is neither approved nor vetoed by the Governor,
20 the expiration of the period of time during which the Governor may veto the
21 bill; or

22 (3) If the bill is vetoed by the Governor and the veto is
23 overridden, the date the last house overrides the veto.

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26 Referred requested by the Arkansas House of Representatives

27 Prepared by: DTP/VJF
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