

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1752

By: Representative Ennett  
By: Senator L. Chesterfield

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE PROCEEDINGS  
AGAINST A RAILROAD COMPANY FOR THE UNLAWFUL DELAY OF  
A TRAIN; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING THE  
PROCEEDINGS AGAINST A RAILROAD COMPANY  
FOR THE UNLAWFUL DELAY OF A TRAIN.

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

SECTION 1. Arkansas Code § 23-12-1007(b), concerning railroad investigations and rules, is amended to read as follows:

(b) ~~Provided, unless and until the commission by order or rule provides otherwise~~ Unless otherwise provided by the commission by order or rule, it is unlawful for any corporation, company, or person owning or operating any railroad trains in the state to permit a standing train to obstruct any public highway, road, street, or other railroad crossing for more than ~~ten (10)~~ fifteen (15) minutes.

SECTION 2. Arkansas Code § 23-12-1008 is amended to read as follows:  
23-12-1008. Unlawful delay – Action on complaint.

(a)(1)(A) ~~Prior to any request by~~ Before a state, municipal, or county official ~~for requests~~ sanctions against a railroad company for violation of this section and §§ 23-12-1006 and 23-12-1007, the state, municipal, or county official shall state the claim or complaint in writing, by certified



mail, or email to the registered agent of the railroad company in question.

(B)(i) Within ~~forty five (45)~~ fifteen (15) days after the receipt of the written claim or complaint is received by certified mail or email by the railroad company, the railroad company shall respond to the claim or complaint stating with specificity the reasons for obstructing a crossing for an unlawful period of time.

(ii) ~~This~~ The response under subdivision (a)(1)(B)(i) of this section shall be in writing to the complaining official by certified mail or email.

(2)(A) ~~In the event~~ If the issue is not then resolved to the satisfaction of the complaining official, the official shall notify the State Highway Commission in writing and shall enclose a copy of the complaint and response.

(B)(i) Within ~~sixty (60)~~ fifteen (15) days after receipt of the notice, the commission shall hold a hearing on the complaint under subdivision (a)(2)(A) of this section.

(ii) Notice of the hearing under subdivision (a)(2)(B)(i) of this section shall be given the railroad company and the complainant at least ~~twenty (20)~~ fifteen (15) days before the hearing.

(C) The commission or its designated representative, after an appropriate notice and hearing on the complaint under this section, shall determine whether the obstruction was for an unlawful period of time under the circumstances.

(3)(A)(i) If the commission makes ~~such~~ a finding of unlawful delay based on information presented at a hearing before the commission or before its designated representative under this section, the railroad company charged with the violation shall be subject to a penalty to be imposed by the commission of ~~not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) per occurrence;~~

(a) Not less than four hundred dollars (\$400) nor more than one thousand dollars (\$1,000); or

(b) If an unlawful delay causes death or injury, no more than two hundred fifty thousand dollars (\$250,000).

(ii) A railroad company is not in violation of this section, § 23-12-1006, or § 23-12-1007 if the delay complained of occurred due to circumstances outside the reasonable control of the railroad company .

including without limitation:

(a) Natural disasters; or

(b) Acts by third parties.

(iii) An employee is not be in violation of this section, § 23-12-1006, or § 23-12-1007 if the delay complained of occurred while the employee was performing his or her duties under the operating rules of the railroad company or the railroad company's supervisory personnel.

(B)(i) The decision of the commission under this section may be appealed to the circuit court of the county in which the violation occurred at any time within thirty (30) days after the decision is rendered.

(ii) Provided, the decision of the commission shall be final unless appealed as authorized herein.

(b) After the initial ~~ten-minute~~ fifteen-minute period or such other period as may be prescribed by rule of the commission, each ~~ten-minute~~ fifteen-minute period or other period as may be prescribed by rule of the commission that the crossing is obstructed by a standing train shall constitute a separate offense, and penalties may be imposed accordingly.

(c)(1) If the crossing where a violation occurs is located within the boundaries of a city or town, one-half ( $\frac{1}{2}$ ) of the moneys recovered under ~~the provisions of~~ this section and §§ 23-12-1006 and 23-12-1007 shall be placed in the general fund or street fund of the municipality, and one-half ( $\frac{1}{2}$ ) of the funds shall be placed in the State Highway and Transportation Department Fund.

(2) All other moneys recovered under ~~the provisions of~~ this section shall be divided equally between the State Highway and Transportation Department Fund and the general road fund of the county in which the violation occurred.