

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1837

By: Representative V. Flowers

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE JURISDICTION OF THE STATE HIGHWAY COMMISSION OVER RAILROAD CROSSING SAFETY AND RAILROAD TRAINS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE JURISDICTION OF THE STATE HIGHWAY COMMISSION OVER RAILROAD CROSSING SAFETY AND RAILROAD TRAINS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 23-12-1002 is amended to read as follows:
23-12-1002. Jurisdiction.

(a) The State Highway Commission;

(1) ~~administers~~ Administers the railroad crossing safety program in Arkansas and ~~has heretofore been~~ is designated by the General Assembly as the sole public body to deal with the program; and

(2) ~~has been given~~ Has exclusive jurisdiction concerning the:

(A) ~~location~~ Location, construction, improvement, and protection of railroad crossings in Arkansas; and

(B) Operation and movement of railroad trains in this state, including without limitation the regulation of the length of a railroad train.

(b) It is in the public's interest and safety that uniformity be



established in ~~other~~ matters pertaining to the maintenance of railroad crossings and the operation and movement of railroad trains in this state.

SECTION 2. 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 findings.

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

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

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

23-12-1102. Definitions.

As used in this subchapter:

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

(2) "Main line" means a Class I railroad documented in current timetables filed as required under 49 C.F.R. § 217.7, as it existed on January 1, 2023, that:

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

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

(3)(A) "Railroad" means a form of nonhighway ground

transportation that runs on rails or electromagnetic guideways within this state, including without limitation:

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

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

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

(4) "Railroad company" means any corporation, company, or individual that owns or operates any railroad in this state, whether as owner, contractor, lessee, mortgagee, trustee, assignee, or receiver, and their officers and agents;

(5)(A) "Railroad train" means one (1) or more locomotives with or without cars, requiring an air brake test in accordance with 49 C.F.R. § 232, as it existed on January 1, 2023, or 49 C.F.R. § 238, as it existed on January 1, 2023, including without limitation:

(i) A single locomotive;

(ii) Multiple locomotives coupled together; or

(iii) One (1) or more locomotives coupled with one (1) or more cars.

(B) "Railroad train" does not include a locomotive or car during switching operations or when the operation of the locomotive or car is that of classifying and assembling cars within a railroad yard for the purpose of making or breaking up railroad trains.

23-12-1103. Maximum railroad train length.

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

23-12-1104. Civil penalty – Negotiation.

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

(1) Not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500) per foot over the maximum railroad train length

authorized under § 23-12-1103; and

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

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

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

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

(B) With respect to the violator:

(i) The degree of culpability;

(ii) Previous violations;

(iii) The ability to pay the penalty imposed; and

(iv) The ability to continue to do business if the penalty is imposed.

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

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

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

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

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

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