

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senator Hoofman**

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §23-12-304 TO HAVE THE  
9 ARKANSAS STATE HIGHWAY COMMISSION STUDY SAFETY  
10 CONSIDERATIONS BEFORE ANY CONSTRUCTION OR IMPROVEMENTS ARE  
11 MADE TO RAILROAD CROSSINGS; TO DECLARE AN EMERGENCY; AND  
12 FOR OTHER PURPOSES."

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

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16 SECTION 1. Arkansas Code § 23-12-304 is hereby amended to read as  
17 follows:

18 "23-12-304. Inspection of road crossings by commission - Hearings and  
19 orders.

20 (a) (1) It shall be the duty of the Arkansas State Highway Commission,  
21 or any representative of it, to inspect any road or street crossing in this  
22 state, either on their own initiative or when its attention is called to it by  
23 any citizen.

24 (2) Upon a hearing the commission may make an order requiring the  
25 railroad company to protect the crossing in any manner which they consider  
26 just and reasonable, whether the crossings are at grade or over or under  
27 crossing and whether a public or private crossing.

28 (b) (1) It shall further be the duty of the Arkansas State Highway  
29 Commission, or any representative thereof, to make a personal inspection of  
30 any designated place where it is desired that a road or street, either public  
31 or private, cross any railroad in this state.

32 (2) Upon ten (10) days' notice as required by law and after a  
33 public hearing, the commission may make such order as in its judgment shall be  
34 just and proper. The order may provide for a crossing at grade, over or under  
35 the railroad, and shall be enforced as other orders made by the Arkansas State

1 Highway Commission.

2 (c) By applicable federal law, the Congress has declared that laws,  
3 rules, regulations, orders and standards relative to railroad safety shall be  
4 nationally standard to the extent practicable and that each state shall  
5 conduct and maintain a survey of all crossings and assign priorities from a  
6 safety standpoint for appropriate improvements and protective devices. The  
7 Arkansas State Highway Commission has made the survey, given the crossings in  
8 Arkansas hazardous index rating and now administers the crossing safety  
9 program in Arkansas. In view of the above, the Arkansas State Highway  
10 Commission is hereby designated as the sole public body to deal with, and  
11 shall have exclusive jurisdiction over, the location and construction of new  
12 and the improving and protecting of new and existing street, road, and highway  
13 railroad crossings in Arkansas."

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15 SECTION 2. All provisions of this act of general and permanent nature  
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
17 Revision Commission shall incorporate the same in the Code.

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19 SECTION 3. If any provisions of this act or the application thereof to  
20 any person or circumstance is held invalid, the invalidity shall not affect  
21 other provisions or applications of the act which can be given effect without  
22 the invalid provisions or application, and to this end the provisions of this  
23 act are declared to be severable.

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25 SECTION 4. All laws and parts of laws in conflict with this act are  
26 hereby repealed.

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28 SECTION 5. Emergency. It is hereby found and determined by the  
29 Seventy-Eighth General Assembly of the State of Arkansas that no railroad  
30 crossing for a street, road, or highway should be constructed or improved, or  
31 safety devices installed unless there is an objective review of the safety  
32 considerations conducted by the Arkansas State Highway Commission, that the  
33 Arkansas State Highway Commission should be given the exclusive jurisdiction  
34 over such matters, and that, without such studies, railroad crossing  
35 improvements and safety devices may be an unnecessary and wasteful expenditure

1 of money. Therefore, in order to promote the most efficient use of funds for  
2 railroad crossing construction, an emergency is hereby declared to exist, and  
3 this act being necessary for the immediate preservation of the public peace,  
4 health, and safety, shall be in full force and effect from and after its  
5 passage and approval.

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