

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

HOUSE BILL 1961

4
5 By: Representatives Richardson, Jett, Tosh, Miller, V. Flowers, Godfrey, Scott
6 By: Senator L. Chesterfield

For An Act To Be Entitled

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

Subtitle

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

18
19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code Title 23, Chapter 12, is amended to add an
23 additional subchapter to read as follows:

Subchapter 11 – Railroad Train Operating Length

24
25
26
27 23-12-1101. Legislative intent.

28 The General Assembly finds that:

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

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

34 (3) The Federal Railroad
35 Administration and other federal agencies have investigated whether
36 increasing the length of railroad trains is a safety risk;



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

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

6
 7 23-12-1102. Definitions.

8 As used in this subchapter:

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

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

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

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

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

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

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

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

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

35 (5) "Railroad train" means one (1) or more locomotives with or
 36 without cars, requiring an air brake test in accordance with 49 C.F.R. § 232

1 or 49 C.F.R. § 238, as in effect on January 1, 2019, including without
 2 limitation:

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

7

8 23-12-1103. Maximum railroad train length.

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

11

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

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

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

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

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

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

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

26 (B) With respect to the violator:

27 (i) The degree of culpability;

28 (ii) Previous violations;

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

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

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

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

36 (e) A penalty imposed under this section, if not promptly paid to the

1 department, shall be referred to the Attorney General for collection in
 2 district court.

3
 4 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 5 General Assembly of the State of Arkansas that maintaining safe railroad
 6 operating practices is necessary for public safety and commerce efficiency;
 7 that maintaining limitations on railroad train length will ensure the safety
 8 of the citizen of Arkansas; that a railroad company's desire to reduce costs
 9 is not more important than the safety of the public and of railroad
 10 employees; and that this act conveys the importance of transportation
 11 infrastructure, uninterrupted commerce, and the state's duty to protect its
 12 citizens. Therefore, an emergency is declared to exist, and this act being
 13 immediately necessary for the preservation of the public peace, health, and
 14 safety shall become effective on:

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

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

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