

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1837

5 By: Representative V. Flowers  
6

## For An Act To Be Entitled

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

14 TO AMEND THE LAW CONCERNING THE  
15 JURISDICTION OF THE STATE HIGHWAY  
16 COMMISSION OVER RAILROAD CROSSING SAFETY  
17 AND RAILROAD TRAINS; AND TO DECLARE AN  
18 EMERGENCY.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 23-12-1002 is amended to read as follows:  
25 23-12-1002. Jurisdiction.

26 (a) The State Highway Commission;

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

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

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

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

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



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

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 4 SECTION 2. Arkansas Code Title 23, Chapter 12, is amended to add an  
 5 additional subchapter to read as follows:

6  
 7 Subchapter 11 – Railroad Train Operating Length

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 9 23-12-1101. Legislative findings.

10 The General Assembly finds that:

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

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

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

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

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

23  
 24 23-12-1102. Definitions.

25 As used in this subchapter:

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

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

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

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

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

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

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

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

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

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

15 (5)(A) "Railroad train" means one (1) or more locomotives with  
16 or without cars, requiring an air brake test in accordance with 49 C.F.R. §  
17 232, as it existed on January 1, 2023, or 49 C.F.R. § 238, as it existed on  
18 January 1, 2023, including without limitation:

19 (i) A single locomotive;

20 (ii) Multiple locomotives coupled together; or

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

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

27  
28 23-12-1103. Maximum railroad train length.

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

31  
32 23-12-1104. Civil penalty – Negotiation.

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

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

1 authorized under § 23-12-1103; and

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

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

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

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

10 (B) With respect to the violator:

11 (i) The degree of culpability;

12 (ii) Previous violations;

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

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

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

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

21  
 22 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 23 General Assembly of the State of Arkansas that maintaining safe railroad  
 24 operating practices is necessary for public safety and commerce efficiency;  
 25 that maintaining limitations on railroad train length will ensure the safety  
 26 of the citizens of Arkansas; that a railroad company's desire to reduce costs  
 27 is not more important than the safety of the public and railroad employees;  
 28 and that this act conveys the importance of transportation infrastructure,  
 29 uninterrupted commerce, first responders, law enforcement, firefighters, and  
 30 the state's duty to protect its citizens. Therefore, an emergency is declared  
 31 to exist, and this act being immediately necessary for the preservation of  
 32 the public peace, health, and safety shall become effective on:

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

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

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

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