

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

# A Bill

HOUSE BILL 1961

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

8 Filed with: House Committee on Public Transportation  
9 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

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

## Subtitle

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

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

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

### Subchapter 11 – Railroad Train Operating Length

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29 23-12-1101. Legislative intent.

30 The General Assembly finds that:

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

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

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

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

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

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10       23-12-1102. Definitions.

11       As used in this subchapter:

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

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

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

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

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

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

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

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

34           (4) "Railroad company" means all corporations, companies, or  
35 individuals which own or operate any railroad in this state, whether as

1 owner, contractor, lessee, mortgagee, trustee, assignee, or receiver, and  
2 their officers and agents; and

3 (5) "Railroad train" means one (1) or more locomotives with or  
4 without cars, requiring an air brake test in accordance with 49 C.F.R. § 232  
5 or 49 C.F.R. § 238, as in effect on January 1, 2019, including without  
6 limitation:

- 7 (A) A single locomotive;
- 8 (B) Multiple locomotives coupled together; and
- 9 (C) One (1) or more locomotives coupled with one (1) or  
10 more cars.

11  
12 23-12-1103. Maximum railroad train length.

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

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16 23-12-1104. Civil penalty – Negotiation.

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

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

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

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

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

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

- 30 (B) With respect to the violator:
  - 31 (i) The degree of culpability;
  - 32 (ii) Previous violations;
  - 33 (iii) The ability to pay the penalty imposed; and
  - 34 (iv) The ability to continue to do business if the  
35 penalty is imposed.

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

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

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

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

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

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

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

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28 Referred by Representative Richardson

29 Prepared by: DTP/DTP