

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 478

5 By: Senators C. Tucker, B. Sample
6 By: Representative M. McElroy
7

For An Act To Be Entitled

9 AN ACT TO AUTHORIZE THE DEPARTMENT OF HEALTH TO
10 IMPLEMENT RAILROAD SAFETY MEASURES DURING A NATIONAL
11 PANDEMIC; TO DECLARE AN EMERGENCY; AND FOR OTHER
12 PURPOSES.
13
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Subtitle

16 TO AUTHORIZE THE DEPARTMENT OF HEALTH TO
17 IMPLEMENT RAILROAD SAFETY MEASURES DURING
18 A NATIONAL PANDEMIC; AND TO DECLARE AN
19 EMERGENCY.
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. DO NOT CODIFY. Legislative intent.

25 The General Assembly finds that:

26 (1) The services provided by freight railroads are essential to
27 the functionality of the state during a national pandemic; and

28 (2) It is necessary to grant the Department of Health
29 jurisdiction of oversight to maintain safe working conditions for railroad
30 employees and the citizens of Arkansas.
31

32 SECTION 2. Arkansas Code § 19-5-307(b), concerning revenues deposited
33 into the Public Health Fund, is amended to add an additional subdivision to
34 read as follows:

35 (9) Administrative penalties assessed under § 23-12-106.
36



SECTION 3. Title 23, Chapter 12, Subchapter 1, is amended to add an additional section to read as follows:

23-12-106. National pandemic safety guideline enforcement – Definitions.

(a) As used in this section:

(1)(A) "Railroad" means any 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; and

(2) "Railroad carrier" means a company in the business of transporting persons or goods by railroad.

(b)(1) In the event of a national pandemic declared by the Centers for Disease Control and Prevention, a railroad operating in the state shall comply with the workplace guidelines provided by the Centers for Disease Control and Prevention.

(2) The Department of Health shall enforce the workplace guidelines provided by the Centers for Disease Control and Prevention under subdivision (b)(1) of this section.

(c)(1) The department shall impose:

(A) An administrative penalty of not less than one thousand dollars (\$1,000) but not more than five thousand dollars (\$5,000) on a railroad carrier in violation of this section; or

(B) A one-time administrative penalty of two hundred fifty thousand dollars (\$250,000) for a grossly negligent violation of this section or a pattern of repeated violations of this section that have caused:

(i) An imminent hazard of death or injury; or

(ii) Death or injury.

(2) An administrative penalty collected under subdivision (c)(1) of this section shall be deposited into the Public Health Fund.

1 (d)(1) The Secretary of the Department of Health and the railroad
 2 carrier responsible for the violation of this section may negotiate the
 3 amount of the administrative penalty owed under subdivision (c)(1) of this
 4 section.

5 (2) In determining the negotiated amount under subdivision
 6 (c)(1) of this section, the secretary shall consider:

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

9 (B) The degree of culpability;

10 (C) Any history of violations;

11 (D) The ability to pay;

12 (E) Any effect on the ability to continue to do business;

13 and

14 (F) Any other factor that may be used to determine the
 15 negotiated amount.

16 (e)(1) If the secretary does not negotiate the amount of the
 17 administrative penalty and the administrative penalty is not promptly paid,
 18 the secretary shall refer the case to the Attorney General for collection.

19 (2) The Attorney General shall bring a civil action to collect
 20 an administrative penalty owed under subdivision (c)(1) of this section:

21 (A) Within three (3) years from the date the violation
 22 occurred; and

23 (B) In a district court:

24 (i) Within the judicial district in which the
 25 violation occurred; or

26 (ii) Where the railroad carrier has its principal
 27 executive office.

28 (f) In any proceeding under this section, a railroad carrier is
 29 presumed to know the acts of the railroad carrier's:

30 (1) Employees;

31 (2) Officers; and

32 (3) Agents.

33
 34 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
 35 General Assembly of the State of Arkansas that maintaining safe operating
 36 practices by railroad carriers is necessary for public safety and commerce

1 efficiency; that allowing the Department of Health to enforce pandemic safety
2 standards will ensure the safety of the citizens of this state by helping to
3 alleviate and avoid consequences that can damage the state's infrastructure;
4 and that this act conveys the importance of transportation infrastructure,
5 uninterrupted commerce, and the state's duty to protect its citizens.
6 Therefore, an emergency is declared to exist, and this act being immediately
7 necessary for the preservation of public peace, health, and safety shall
8 become effective on:

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

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

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