

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

A Bill

HOUSE BILL 1752

5 By: Representative Ennett
6 By: Senator L. Chesterfield
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE PROCEEDINGS
10 AGAINST A RAILROAD COMPANY FOR THE UNLAWFUL DELAY OF
11 A TRAIN; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND THE LAW CONCERNING THE
16 PROCEEDINGS AGAINST A RAILROAD COMPANY
17 FOR THE UNLAWFUL DELAY OF A TRAIN.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 23-12-1007(b), concerning railroad
23 investigations and rules, is amended to read as follows:

24 (b) ~~Provided, unless and until the commission by order or rule~~
25 ~~provides otherwise~~ Unless otherwise provided by the commission by order or
26 rule, it is unlawful for any corporation, company, or person owning or
27 operating any railroad trains in the state to permit a standing train to
28 obstruct any public highway, road, street, or other railroad crossing for
29 more than ~~ten (10)~~ fifteen (15) minutes.
30

31 SECTION 2. Arkansas Code § 23-12-1008 is amended to read as follows:
32 23-12-1008. Unlawful delay – Action on complaint.

33 (a)(1)(A) ~~Prior to any request by~~ Before a state, municipal, or county
34 official ~~for requests~~ sanctions against a railroad company for violation of
35 this section and §§ 23-12-1006 and 23-12-1007, the state, municipal, or
36 county official shall state the claim or complaint in writing, by certified



1 mail, or email to the registered agent of the railroad company in question.

2 (B)(i) Within ~~forty five (45)~~ fifteen (15) days after the
3 receipt of the written claim or complaint is received by certified mail or
4 email by the railroad company, the railroad company shall respond to the
5 claim or complaint stating with specificity the reasons for obstructing a
6 crossing for an unlawful period of time.

7 (ii) ~~This~~ The response under subdivision (a)(1)(B)(i)
8 of this section shall be in writing to the complaining official by certified
9 mail or email.

10 (2)(A) ~~In the event~~ If the issue is not then resolved to the
11 satisfaction of the complaining official, the official shall notify the State
12 Highway Commission in writing and shall enclose a copy of the complaint and
13 response.

14 (B)(i) Within ~~sixty (60)~~ fifteen (15) days after receipt
15 of the notice, the commission shall hold a hearing on the complaint under
16 subdivision (a)(2)(A) of this section.

17 (ii) Notice of the hearing under subdivision
18 (a)(2)(B)(i) of this section shall be given the railroad company and the
19 complainant at least ~~twenty (20)~~ fifteen (15) days before the hearing.

20 (C) The commission or its designated representative, after
21 an appropriate notice and hearing on the complaint under this section, shall
22 determine whether the obstruction was for an unlawful period of time under
23 the circumstances.

24 (3)(A)(i) If the commission makes ~~such~~ a finding of unlawful
25 delay based on information presented at a hearing before the commission or
26 before its designated representative under this section, the railroad company
27 charged with the violation shall be subject to a penalty to be imposed by the
28 commission of ~~not less than two hundred dollars (\$200) nor more than five~~
29 ~~hundred dollars (\$500) per occurrence;~~

30 (a) Not less than four hundred dollars (\$400)
31 nor more than one thousand dollars (\$1,000); or

32 (b) If an unlawful delay causes death or
33 injury, no more than two hundred fifty thousand dollars (\$250,000).

34 (ii) A railroad company is not in violation of this
35 section, § 23-12-1006, or § 23-12-1007 if the delay complained of occurred
36 due to circumstances outside the reasonable control of the railroad company .

1 including without limitation:

2 (a) Natural disasters; or

3 (b) Acts by third parties.

4 (iii) An employee is not be in violation of this
 5 section, § 23-12-1006, or § 23-12-1007 if the delay complained of occurred
 6 while the employee was performing his or her duties under the operating rules
 7 of the railroad company or the railroad company's supervisory personnel.

8 (B)(i) The decision of the commission under this section
 9 may be appealed to the circuit court of the county in which the violation
 10 occurred at any time within thirty (30) days after the decision is rendered.

11 (ii) Provided, the decision of the commission shall
 12 be final unless appealed as authorized herein.

13 (b) After the initial ~~ten-minute~~ fifteen-minute period or such other
 14 period as may be prescribed by rule of the commission, each ~~ten-minute~~
 15 fifteen-minute period or other period as may be prescribed by rule of the
 16 commission that the crossing is obstructed by a standing train shall
 17 constitute a separate offense, and penalties may be imposed accordingly.

18 (c)(1) If the crossing where a violation occurs is located within the
 19 boundaries of a city or town, one-half ($\frac{1}{2}$) of the moneys recovered under ~~the~~
 20 ~~provisions of~~ this section and §§ 23-12-1006 and 23-12-1007 shall be placed
 21 in the general fund or street fund of the municipality, and one-half ($\frac{1}{2}$) of
 22 the funds shall be placed in the State Highway and Transportation Department
 23 Fund.

24 (2) All other moneys recovered under ~~the provisions of~~ this
 25 section shall be divided equally between the State Highway and Transportation
 26 Department Fund and the general road fund of the county in which the
 27 violation occurred.