

1 HB122
2 216216-2
3 By Representative Garrett
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 13-JAN-22

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8 SYNOPSIS: This bill would provide that, except for
9 trains stopped due to mechanical failure where
10 separation or movement is not possible, and except
11 for trains stopped as required by federal law, any
12 train that has come to a complete stop and is
13 blocking a railroad-highway grade crossing shall be
14 cut, separated, or moved to clear the crossing upon
15 the approach of any authorized emergency vehicle.

16 This bill would deem the operator of a train
17 that blocks a railroad-highway grade crossing for
18 two or more continuous hours to be a public
19 nuisance and would levy a civil penalty of \$5,000
20 for each additional hour the train blocks the
21 railroad-highway grade crossing. The civil penalty
22 would be limited to \$50,000 per day.

23 This bill would also authorize a law
24 enforcement officer to order the cutting, movement,
25 or separation of a train that blocks a crossing in
26 violation of this section, and would tax all costs
27 to the operator of the train.

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2 A BILL
3 TO BE ENTITLED
4 AN ACT
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6 Relating to emergency services; to provide
7 legislative findings; to provide prohibitions on the blocking
8 of a railroad-highway grade crossing under certain conditions;
9 and to provide a civil penalty for a violation.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. (a) The Legislature finds and declares
12 the following:

13 (1) That other emergency services, including
14 services provided by law enforcement officers, firefighters,
15 and emergency medical services personnel, are a primary and
16 essential service to the health and well-being of the people
17 of the State of Alabama.

18 (2) That effective delivery of emergency medical
19 care and the fast response by law enforcement officers and
20 firefighters is often the difference between life and death or
21 permanent disability to those persons in the State of Alabama
22 making use of such services in an emergency.

23 (3) That the effective delivery of emergency
24 services by emergency medical services personnel and other
25 emergency services provided by first responders has been
26 delayed by the negligent blocking of railroad-highway grade
27 crossings.

1 (4) In many counties and municipalities in the State
2 of Alabama, the blocking of a single railroad-highway grade
3 crossing can cause substantial delays in the provision of
4 necessary emergency services.

5 (b) Except for trains stopped due to mechanical
6 failure, where separation or movement is not possible, and
7 except for trains stopped as required by federal law, any
8 train that has come to a complete stop and is blocking a
9 railroad-highway grade crossing for two or more continuous
10 hours shall be cut, separated, or moved to clear the crossing
11 upon the approach of any authorized emergency vehicle, as
12 defined under Section 32-1-1.1, Code of Alabama 1975.

13 (c) When a train blocks a railroad-highway grade
14 crossing in violation of subsection (b) for two or more
15 continuous hours, the train shall constitute a public
16 nuisance. The person or entity operating the train shall pay a
17 civil penalty of five thousand dollars (\$5,000) for each hour
18 the train blocks the railroad-highway grade crossing; provided
19 the civil penalty does not exceed fifty thousand dollars
20 (\$50,000) per day.

21 (d) When a train is in violation of subsection (b),
22 the Attorney General or governing body of a local county or
23 municipality may file an emergency petition with a court of
24 competent jurisdiction to request the public nuisance to be
25 abated. The court may grant the petition and order the train
26 to be cut, separated, or moved to allow passage through the
27 railroad-highway grade crossing by an approaching authorized

1 emergency vehicle. The operator of a train in violation of
2 this section shall be taxed for all costs arising out of this
3 subsection.

4 (e) In a successful action brought under this
5 section by the Attorney General or governing body of a local
6 county or municipality, the court shall award reasonable
7 attorney fees and costs to the prevailing party.

8 Section 2. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.