

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 5475

(As passed the House, May 1, 2002)

(As passed the Senate, May 22, 2002)

A bill to amend 1993 PA 354, entitled
"Railroad code of 1993,"
by amending section 309 (MCL 462.309).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 309. (1) A railroad owning tracks across a public
2 street or highway at grade shall at its sole cost and expense
3 construct and thereafter maintain, renew, and repair all railroad
4 roadbed, track, and railroad culverts within the confines of the
5 street or highway, and the streets or sidewalks lying between the
6 rails and for a distance outside the rails of 1 foot beyond the
7 end of the ties. The road authority at its sole cost and expense
8 shall construct or improve if necessary and thereafter maintain,
9 renew, and repair the remainder of the street or highway.
10 (2) The space between the rails and for a distance outside
11 of the rails of 1 foot beyond the end of the ties shall be

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1 surfaced with a material which shall be as durable and as smooth
2 as the adjacent street or highway surfacing, and shall have mini-
3 mum qualifications not inferior to wooden planks, and shall con-
4 form, as nearly as reasonably may be, to the configuration of the
5 adjacent street or highway. In the case of streets and highways
6 constructed or reconstructed after the effective date of this
7 act, the surfacing of planks or other material shall have a mini-
8 mum length equal to the length between the established curb
9 lines, or, in the absence of curb lines, equal to the length
10 between the established shoulder lines of the street or highway
11 plus 2 feet on each side of the street or highway.

12 (3) The full cost of maintaining and repairing all existing
13 crossings shall be borne by the respective parties responsible
14 for the work as provided in this act. The cost of improving an
15 existing crossing, where improvement is necessary, shall be borne
16 in the same manner as provided in this act for maintenance and
17 repair.

18 (4) Any alteration in the existing elevation of the top of
19 railroad track or highway surface in excess of 1 inch shall be
20 mutually determined by the railroad and road authority; but in
21 case of failure to agree, the parties may apply to the department
22 which may provide for the alteration after hearing. Where the
23 change in elevation of track rails is agreed upon or authorized
24 for purposes other than to conform to the configuration of the
25 adjacent street or highway, the entire cost shall be borne by the
26 party requesting the change.

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1 (5) The railroad shall not perform any work, except
2 emergency repairs, on public streets or highways between the
3 established curb lines, or, in the absence of established curb
4 lines, between the established shoulder lines of the street or
5 highway, without first notifying the road authority having juris-
6 diction over the street or highway, and without first providing
7 and thereafter maintaining the necessary traffic controls in
8 accordance with the Michigan manual of uniform traffic control
9 devices. The railroad plan for maintaining traffic showing the
10 necessary barricades, lights, flaggers, and traffic detours and
11 other traffic controls shall be approved by the road authority
12 before the work begins.

13 (6) In cases of sidewalk repair or construction, a railroad
14 shall first be given the right to construct in the same manner as
15 that right is given to individuals, and if it fails, the local
16 unit of government may cause the sidewalk to be constructed at
17 the expense of the railroad, with the cost to be collected in the
18 usual manner as provided in the law governing that local unit of
19 government. In the case of the construction of a railroad upon
20 any public street, lane, alley, or highway, the same shall be on
21 such terms and conditions as shall be agreed upon between the
22 railroad company and the governing body of any city, or the vil-
23 lage board of any village, or the township board of any township
24 and the appropriate road authority in which the railroad is
25 located; but the railroad shall not be constructed upon any
26 public street, lane, alley, highway, or private way until damages
27 and compensation are made by the railroad company to the owner or

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1 owners of property adjoining the street, lane, alley, highway, or
2 private way and opposite where the railroad is to be constructed,
3 either by agreement between the railroad company and each owner
4 or owners, or as otherwise provided in this act for obtaining
5 property or franchises for the purpose of constructing a
6 railroad.

7 (7) NOTHING IN THIS SECTION SHALL PROHIBIT A ROAD AUTHORITY,
8 AT ITS DISCRETION AND SOLE COST AND EXPENSE, FROM PERFORMING ANY
9 OF THE WORK DESCRIBED IN THIS SECTION PROVIDED THAT THE ROAD
10 AUTHORITY RECEIVES APPROVAL FROM AND GIVES NOTICE TO THE
11 RAILROAD.

12 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
13 NEITHER THE RAILROAD NOR THE ROAD AUTHORITY SHALL CHARGE ANY TYPE
14 OF ACCESS FEE, INSPECTION FEE, OR RIGHT OF ENTRY FEE IN CONNec-
15 TION WITH THE PERFORMANCE OF WORK DESCRIBED IN THIS SECTION.