

# HOUSE BILL No. 5475

November 29, 2001, Introduced by Reps. Gilbert and Hager and referred to the Committee on Transportation.

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, MAINTAIN, or improve THE STREETS AND SIDEWALKS  
9 LYING BETWEEN THE RAILS, if necessary and thereafter maintain,  
10 renew, and repair the PORTION BETWEEN THE RAILS AND THE remainder  
11 of the street or highway. THE RAILROAD SHALL NOT BEGIN WORK

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1 DESCRIBED IN THIS SUBSECTION WITHOUT THE WRITTEN APPROVAL OF THE  
2 ROAD AUTHORITY. THE ROAD AUTHORITY SHALL NOT BEGIN WORK  
3 DESCRIBED IN THIS SUBSECTION WITHOUT THE WRITTEN APPROVAL OF THE  
4 RAILROAD. NEITHER THE RAILROAD OR THE ROAD AUTHORITY SHALL  
5 CHARGE ANY TYPE OF FEE IN CONNECTION WITH THE PERFORMANCE OF WORK  
6 DESCRIBED IN THIS SUBSECTION, INCLUDING, BUT NOT LIMITED TO,  
7 ACCESS FEES OR INSPECTION FEES.

8 (2) The space between the rails and for a distance outside  
9 of the rails of 1 foot beyond the end of the ties shall be sur-  
10 faced with a material which shall be as durable and as smooth as  
11 the adjacent street or highway surfacing, and shall have minimum  
12 qualifications not inferior to wooden planks, and shall conform,  
13 as nearly as reasonably may be, to the configuration of the adja-  
14 cent street or highway. In the case of streets and highways con-  
15 structed or reconstructed after the effective date of this act,  
16 the surfacing of planks or other material shall have a minimum  
17 length equal to the length between the established curb lines,  
18 or, in the absence of curb lines, equal to the length between the  
19 established shoulder lines of the street or highway plus 2 feet  
20 on each side of the street or highway.

21 (3) The full cost of maintaining and repairing all existing  
22 crossings shall be borne by the respective parties responsible  
23 for the work as provided in this act. The cost of improving an  
24 existing crossing, where improvement is necessary, shall be borne  
25 in the same manner as provided in this act for maintenance and  
26 repair.

1           (4) Any alteration in the existing elevation of the top of  
2 railroad track or highway surface in excess of 1 inch shall be  
3 mutually determined by the railroad and road authority; but in  
4 case of failure to agree, the parties may apply to the department  
5 which may provide for the alteration after hearing. Where the  
6 change in elevation of track rails is agreed upon or authorized  
7 for purposes other than to conform to the configuration of the  
8 adjacent street or highway, the entire cost shall be borne by the  
9 party requesting the change.

10           (5) The railroad shall not perform any work, except emer-  
11 gency repairs, on public streets or highways between the estab-  
12 lished curb lines, or, in the absence of established curb lines,  
13 between the established shoulder lines of the street or highway,  
14 without first notifying the road authority having jurisdiction  
15 over the street or highway, and without first providing and  
16 thereafter maintaining the necessary traffic controls in accord-  
17 ance with the Michigan manual of uniform traffic control  
18 devices. The railroad plan for maintaining traffic showing the  
19 necessary barricades, lights, flaggers, and traffic detours and  
20 other traffic controls shall be approved by the road authority  
21 before the work begins.

22           (6) In cases of sidewalk repair or construction, a railroad  
23 shall first be given the right to construct in the same manner as  
24 that right is given to individuals, and if it fails, the local  
25 unit of government may cause the sidewalk to be constructed at  
26 the expense of the railroad, with the cost to be collected in the  
27 usual manner as provided in the law governing that local unit of

1 government. In the case of the construction of a railroad upon  
2 any public street, lane, alley, or highway, the same shall be on  
3 such terms and conditions as shall be agreed upon between the  
4 railroad company and the governing body of any city, or the vil-  
5 lage board of any village, or the township board of any township  
6 and the appropriate road authority in which the railroad is  
7 located; but the railroad shall not be constructed upon any  
8 public street, lane, alley, highway, or private way until damages  
9 and compensation are made by the railroad company to the owner or  
10 owners of property adjoining the street, lane, alley, highway, or  
11 private way and opposite where the railroad is to be constructed,  
12 either by agreement between the railroad company and each owner  
13 or owners, or as otherwise provided in this act for obtaining  
14 property or franchises for the purpose of constructing a  
15 railroad.