

Act No. 420
Public Acts of 2002
Approved by the Governor
June 5, 2002
Filed with the Secretary of State
June 5, 2002
EFFECTIVE DATE: June 5, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Reps. Gilbert and Hager

ENROLLED HOUSE BILL No. 5475

AN ACT to amend 1993 PA 354, entitled "An act to revise, consolidate, and codify the laws relating to railroads and their employees; to prescribe powers and duties of certain state and local agencies and officials; to prescribe fees; to create certain funds; to provide for the disposition of certain money; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending section 309 (MCL 462.309).

The People of the State of Michigan enact:

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

(2) The space between the rails and for a distance outside of the rails of 1 foot beyond the end of the ties shall be surfaced with a material which shall be as durable and as smooth as the adjacent street or highway surfacing, and shall have minimum qualifications not inferior to wooden planks, and shall conform, as nearly as reasonably may be, to the configuration of the adjacent street or highway. In the case of streets and highways constructed or reconstructed after the effective date of this act, the surfacing of planks or other material shall have a minimum length equal to the length between the established curb lines, or, in the absence of curb lines, equal to the length between the established shoulder lines of the street or highway plus 2 feet on each side of the street or highway.

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

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

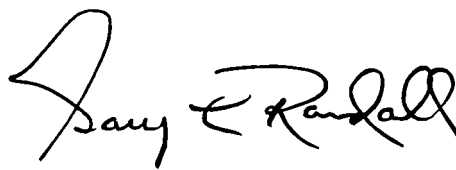
(5) The railroad shall not perform any work, except emergency repairs, on public streets or highways between the established curb lines, or, in the absence of established curb lines, between the established shoulder lines of the street or highway, without first notifying the road authority having jurisdiction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

(6) In cases of sidewalk repair or construction, a railroad shall first be given the right to construct in the same manner as that right is given to individuals, and if it fails, the local unit of government may cause the sidewalk to be constructed at the expense of the railroad, with the cost to be collected in the usual manner as provided in the law governing that local unit of government. In the case of the construction of a railroad upon any public street, lane, alley, or highway, the same shall be on such terms and conditions as shall be agreed upon between the railroad company and the governing body of any city, or the village board of any village, or the township board of any township and the appropriate road authority in which the railroad is located; but the railroad shall not be constructed upon any public street, lane, alley, highway, or private way until damages and compensation are made by the railroad company to the owner or owners of property adjoining the street, lane, alley, highway, or private way and opposite where the railroad is to be constructed, either by agreement between the railroad company and each owner or owners, or as otherwise provided in this act for obtaining property or franchises for the purpose of constructing a railroad.

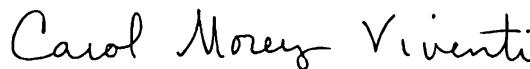
(7) Nothing in this section shall prohibit a road authority, at its discretion and sole cost and expense, from performing any of the work described in this section provided that the road authority receives approval from and gives notice to the railroad.

(8) Notwithstanding any other provision of this section, neither the railroad nor the road authority shall charge any type of access fee, inspection fee, or right of entry fee in connection with the performance of work described in this section.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved

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Governor.