

HOUSE BILL No. 4190

February 3, 2005, Introduced by Reps. Robertson, Gosselin and Garfield and referred to the Committee on Transportation.

A bill to amend 1993 PA 354, entitled
"Railroad code of 1993,"
by amending section 307 (MCL 462.307).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 307. (1) A new public street, highway, or a new
2 nonmotorized trail shall not be constructed across the tracks of
3 any railroad, or the new tracks of any railroad shall not be
4 constructed across a public street, highway, or nonmotorized trail
5 until approval is granted by the department. Upon application, the
6 department shall investigate the location of the proposed crossing.

7 (2) The department, when it determines necessary for the
8 safety of the public, may change the location of or abolish any
9 existing public grade crossing after not less than 30 days' notice

1 in the area affected by the crossing. A public hearing shall be
 2 held by the department if requested by any affected party. Within
 3 30 days after the date of the hearing, the department may issue an
 4 order to close the existing grade crossing. Any person, local unit
 5 of government, or road authority having an interest in the
 6 abolishment of an existing grade crossing, within 30 days after the
 7 closure order of the department, may commence an action in the
 8 circuit court for the county of Ingham against the department as
 9 defendant to vacate or set aside the order.

10 (3) Commencing with the date of the federal designation of a
 11 high-speed rail corridor, a public or private at-grade street or
 12 highway or a farm, bicycle, or pedestrian crossing shall not be
 13 constructed across the railroad tracks of that corridor except for
 14 a crossing consolidation or relocation approved by the department.

15 (4) If the location of a proposed crossing is found to be
 16 necessary, feasible, and may be made reasonably safe for a crossing
 17 at grade, the department shall grant permission for the crossing.
 18 The department shall require installation of ~~such~~ traffic control
 19 devices ~~as~~ **THAT** in its judgment may be appropriate. When a
 20 crossing necessitated by a new roadway across an existing track is
 21 permitted, the department shall, ~~simultaneously,~~ after
 22 investigation **TO DETERMINE WHICH CROSSINGS MEET THE CLOSURE**
 23 **CRITERIA IN THIS SUBSECTION** and **A** hearing **ON WHETHER THE**
 24 **DEPARTMENT'S ACTION MEETS THE CLOSURE CRITERIA IN THIS SUBSECTION,**
 25 **IF REQUESTED BY THE APPROPRIATE ROAD AUTHORITY OR AGENCY,** order the
 26 abolishment of 1 or more existing grade crossings having ~~less~~
 27 **FEWER** than ~~100~~ **1,000** vehicles a day within the same road

1 authority jurisdiction. ~~—, if the involved road authority and~~
2 ~~railroad may waive hearing thereon.~~ **IF A CROSSING HAVING FEWER**
3 **THAN 1,000 VEHICLES A DAY WITHIN THE SAME ROAD AUTHORITY**
4 **JURISDICTION PROVIDES THE SOLE ACCESS TO THE PROPERTY, THE**
5 **DEPARTMENT SHALL NOT ORDER THE ABOLITION OF THE GRADE CROSSING.**

6 (5) If the department determines that the proposed location
7 may not be made reasonably safe for a grade crossing, it shall deny
8 permission for the crossing and require the crossing to be
9 redesigned, if constructed at that location, or to be made other
10 than at grade in accordance with section 319. If the department
11 determines that it is impractical to secure a safe crossing at the
12 point in question, either at grade or otherwise, it shall deny the
13 grade crossing.

14 (6) The full cost of constructing a new street or highway
15 across an existing railroad, or of a new railroad track or tracks
16 across an existing street or highway, shall be borne by the party
17 requesting the crossing. The following shall apply to a new or
18 relocated grade crossing:

19 (a) The plans for the grade crossing shall be approved by both
20 railroad and road authority. If there is a failure to agree, the
21 department shall settle the points of disagreement by the terms of
22 its order.

23 (b) The relocation of an existing grade crossing or the
24 establishment of a new grade crossing at which the existing public
25 highway grade crossing is completely abandoned, shall be
26 constructed and the cost borne in the same manner as in the case of
27 a new grade crossing. The maintenance responsibility of the

1 relocated crossing shall be the same as the removed crossing unless
2 otherwise agreed to by the parties.

3 (c) Temporary grade crossings shall be constructed,
4 maintained, and removed at the sole expense of the parties
5 requesting the same.

6 (d) The cost of construction shall include the direct
7 construction cost of the roadbed, track structure, grade crossing
8 surface, pavement, traffic control devices and drainage, including
9 all material, labor, and services and other costs of construction.

10 (e) After construction, the grade crossing and traffic control
11 devices shall be maintained as provided in this act.

12 (7) Upon approval of any new grade crossing project requested
13 by a road authority, the road authority shall notify the railroad,
14 in writing, to furnish a competent inspector and other necessary
15 persons to inspect the construction of the grade crossing which
16 shall be constructed according to the order of the department. The
17 road authority shall pay to the railroad the actual costs incurred
18 by the railroad for the time actually and necessarily spent in
19 inspecting construction. Upon approval of any new grade crossing
20 project requested by a railroad, the railroad shall notify the road
21 authority, in writing, to furnish a competent inspector and other
22 necessary persons to inspect the construction of the grade crossing
23 which shall be constructed according to the order of the
24 department. The railroad shall pay to the road authority the actual
25 costs incurred by the road authority for the time actually and
26 necessarily spent in inspecting construction.

27 (8) A road authority may request a railroad or a railroad may

1 request a road authority, in writing, to reconstruct, change,
2 widen, or alter that portion of an existing grade crossing with a
3 public street or highway for which they are responsible to
4 accommodate the requesting party's plans for reconstruction,
5 change, widening, or alteration of their crossing related facility.
6 The requesting party shall notify the other party to conform to the
7 change simultaneously with the requesting party's work. However, if
8 the party requested to make changes refuses, the requesting party
9 may make application to the department for a determination. The
10 department, after due hearing on the issue, shall determine the
11 matters in dispute by order. The full cost of the reconstructing,
12 change, widening, or alteration shall be borne by the party
13 requesting it, unless otherwise agreed to.

14 (9) If a track through any grade crossing is abandoned through
15 legal proceedings, the railroad, at its cost as part of routine
16 maintenance, shall remove the tracks and any active traffic control
17 devices and then shall restore the street or highway surface in a
18 manner satisfactory to the road authority. The road authority, at
19 its cost as part of routine maintenance, shall remove all passive
20 traffic control devices. The track and all traffic control devices
21 shall be removed within 1 year of the abandonment. Until such
22 removal is complete, the railroad and road authority shall maintain
23 it in accordance with this act.

24 (10) If a track through any grade crossing becomes unnecessary
25 for the conduct of railroad services, the railroad, at its cost as
26 part of routine maintenance, shall remove the track and any active
27 traffic control devices and then shall restore the street or

1 highway surface in a manner satisfactory to the road authority. The
2 road authority, at its cost as part of routine maintenance, shall
3 remove all passive traffic control devices. The department may
4 order the railroad to remove the track and any traffic control
5 devices if there is not a likelihood of continued use. Until the
6 track and all traffic control devices are removed, the railroad and
7 road authority shall maintain it in accordance with this act.