



# HOUSE BILL No. 6044

September 28, 2000, Introduced by Reps. Gosselin and Bradstreet 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 nonmo-  
2 torized trail shall not be constructed across the tracks of any  
3 railroad, or the new tracks of any railroad shall not be con-  
4 structed across a public street, highway, or nonmotorized trail  
5 until approval is granted by the department. Upon application,  
6 the department shall investigate the location of the proposed  
7 crossing.

8       (2) The department, when it determines necessary for the  
9 safety of the public, may change the location of or abolish any  
10 existing public grade crossing after not less than 30 days'  
11 notice in the area affected by the crossing. A public hearing

1 shall be held by the department if requested by any affected  
2 party. Within 30 days after the date of the hearing, the depart-  
3 ment may issue an order to close the existing grade crossing.

4 Any person, local unit of government, or road authority having an  
5 interest in the abolishment of an existing grade crossing, within  
6 30 days after the closure order of the department, may commence  
7 an action in the circuit court for the county of Ingham against  
8 the department as defendant to vacate or set aside the order.

9 (3) Commencing with the date of the federal designation of a  
10 high-speed rail corridor, a public or private at-grade street or  
11 highway or a farm, bicycle, or pedestrian crossing shall not be  
12 constructed across the railroad tracks of that corridor except  
13 for a crossing consolidation or relocation approved by the  
14 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 cross-  
17 ing at grade, the department shall grant permission for the  
18 crossing. The department shall require installation of such  
19 traffic control devices as in its judgment may be appropriate.  
20 When a crossing necessitated by a new roadway across an existing  
21 track is permitted, the department shall simultaneously, after  
22 investigation and hearing, order the abolishment of 1 or more  
23 existing grade crossings having less than 100 vehicles a day  
24 within the same road authority jurisdiction, if the involved road  
25 authority and railroad may waive hearing thereon.

26 (5) If the department determines that the proposed location  
27 may not be made reasonably safe for a grade crossing, it shall

1 deny permission for the crossing and require the crossing to be  
2 redesigned, if constructed at that location, or to be made other  
3 than at grade in accordance with section 319. If the department  
4 determines that it is impractical to secure a safe crossing at  
5 the point in question, either at grade or otherwise, it shall  
6 deny the grade crossing.

7 (6) The ~~full~~ cost of constructing a new street or highway  
8 across an existing railroad, or of a new railroad track or tracks  
9 across an existing street or highway, shall be borne ~~by the~~  
10 ~~party requesting the crossing~~ 50% BY THE RAILROAD AND 50% BY THE  
11 ROAD AUTHORITY. The following shall apply to a new or relocated  
12 grade crossing:

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

17 (b) The relocation of an existing grade crossing or the  
18 establishment of a new grade crossing at which the existing  
19 public highway grade crossing is completely abandoned, shall be  
20 constructed and the cost borne in the same manner as in the case  
21 of a new grade crossing. The maintenance responsibility of the  
22 relocated crossing shall be the same as the removed crossing  
23 unless otherwise agreed to by the parties.

24 (c) Temporary grade crossings shall be constructed, main-  
25 tained, and removed at the ~~sole~~ EQUAL expense of the ~~parties~~  
26 ~~requesting the same~~ RAILROAD AND THE ROAD AUTHORITY.

1 (d) The cost of construction shall include the direct  
2 construction cost of the roadbed, track structure, grade crossing  
3 surface, pavement, traffic control devices and drainage, includ-  
4 ing all material, labor, and services and other costs of  
5 construction.

6 (e) After construction, the grade crossing and traffic con-  
7 trol devices shall be maintained as provided in this act.

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

24 (8) A road authority may request a railroad or a railroad  
25 may request a road authority, in writing, to reconstruct, change,  
26 widen, or alter that portion of an existing grade crossing with a  
27 public street or highway for which they are responsible to

1 accommodate the requesting party's plans for reconstruction,  
2 change, widening, or alteration of their crossing related  
3 facility. The requesting party shall notify the other party to  
4 conform to the change simultaneously with the requesting party's  
5 work. However, if the party requested to make changes refuses,  
6 the requesting party may make application to the department for a  
7 determination. The department, after due hearing on the issue,  
8 shall determine the matters in dispute by order. ~~The full~~  
9 UNLESS OTHERWISE AGREED TO BY THE PARTIES OR AS DETERMINED IN THE  
10 DEPARTMENT'S ORDER, THE cost of the reconstructing, change, wid-  
11 ening, or alteration shall be borne 50% by the party requesting  
12 it ~~, unless otherwise agreed to~~ AND 50% BY THE OTHER PARTY.

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

23 (10) If a track through any grade crossing becomes unneces-  
24 sary for the conduct of railroad services, the railroad, at its  
25 cost as part of routine maintenance, shall remove the track and  
26 any active traffic control devices and then shall restore the  
27 street or highway surface in a manner satisfactory to the road

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