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SFA**BILL ANALYSIS**

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Senate Bill 859 (as introduced 10-27-99)
Sponsor: Senator Shirley Johnson
Committee: Transportation and Tourism

Date Completed: 5-2-00

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- Permit State and local officials to install and use unmanned traffic monitoring devices at railroad grade crossings on a highway or street in their jurisdictions.
- Specify that a person would be responsible for a civil infraction for violating the Code's requirement that a driver stop at a railroad crossing, on the basis of evidence obtained from an unmanned traffic monitoring device.
- Specify procedures for establishing a violation based on evidence obtained from an unmanned traffic monitoring device.
- Permit a citation for a violation based on evidence obtained from an unmanned traffic monitoring device to be executed by first-class mail.

Installation

Under the bill, the Department of State Police or the State Transportation Department; a county board of commissioners, board of county road commissioners, or county sheriff; or other local authority having jurisdiction over a highway or street, could authorize the installation and use of unmanned traffic monitoring devices at a railroad grade crossing on a highway or street under its jurisdiction.

Violation

A person would be responsible for a civil infraction as provided in Section 667 of the Code, if the person violated a provision of that section on the basis of evidence obtained from an unmanned traffic monitoring device. (Section 667 requires a driver to stop at a railroad grade crossing under certain circumstances.)

A sworn statement of a police officer from the State or local authority having jurisdiction over the highway or street on which the railroad grade crossing was located, based on inspection of photographs, microphotographs, videotape, or other recorded images produced by an unmanned traffic monitoring device, would be prima facie evidence of the facts contained in the statement. ("Prima facie evidence" refers to evidence that is sufficient to establish a given fact unless it is rebutted.) Any photographs, microphotographs, videotape, or other recorded images evidencing a violation would have to be available for inspection in any proceeding to adjudicate the liability for violation of Section 667.

In the prosecution of a violation of Section 667 established under the bill, prima facie evidence that the vehicle described in the citation issued was operated in violation of that section, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, would constitute in evidence a rebuttable presumption that the registered owner of the vehicle was the person who committed the violation. The presumption could be rebutted if the registered owner of the vehicle filed an affidavit by regular mail with the court clerk that he or she was not the operator of the vehicle at the time of the alleged violation or testified in open court under oath that he or she was the operator of the vehicle at the time of the alleged violation. The presumption also could be rebutted if a certified copy of a police report, showing that

the vehicle had been reported to the police as stolen before the time of the alleged violation of the bill, were presented before the return date established on the citation.

Notwithstanding Section 742 of the Code (which governs the issuance of citation for violations of the Code or a substantially corresponding local ordinance), a citation for a violation of Section 667 on the basis of evidence obtained from an unmanned traffic monitoring device could be executed by mailing by first-class mail a copy to the address of the vehicle owner as shown on the records of the Secretary of State. If the summoned person failed to appear on the date of return set out in the citation mailed pursuant to the bill, the citation would have to be executed in the manner provided by law for personal service. Proceedings for contempt or arrest of a person summoned by mailing would have to be instituted for failure to appear on the return date of the citation.

(Under Section 667 (MCL 257.667), when a person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver must stop the vehicle not more than 50 feet but not less than 15 feet from the nearest rail of the railroad, and may not proceed until the driver can do so safely: a clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train; a crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a railroad train; a railroad train approaching within 1,500 feet of the highway crossing gives a signal audible from that distance, and the train by reason of its speed or nearness to the crossing is an immediate hazard; or an approaching railroad train is plainly visible and is in hazardous proximity to the crossing. A person is prohibited from driving a vehicle through, around, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. A person who violates these provisions is responsible for a civil infraction.)

Proposed MCL 257.667a

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have an indeterminate impact on the State and local units of government. There would be administrative costs associated with the installation, operation, and maintenance of unmanned traffic monitoring devices at railroad grade crossings on highways or streets. These administrative costs would be borne by the State or local agency electing to install and operate the traffic monitoring devices.

If this bill resulted in additional violations of the Michigan Vehicle Code, it would generate additional revenues for local libraries.

Fiscal Analyst: C. Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.