

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 859

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
(MCL 257.1 to 257.923) by adding section 667a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 667A. (1) THE DEPARTMENT OF STATE POLICE OR THE STATE
2 TRANSPORTATION DEPARTMENT; THE COUNTY BOARD OF COMMISSIONERS,
3 BOARD OF COUNTY ROAD COMMISSIONERS, OR COUNTY SHERIFF; OR OTHER
4 LOCAL AUTHORITY HAVING JURISDICTION OVER A HIGHWAY OR STREET MAY
5 AUTHORIZE THE INSTALLATION AND USE OF UNMANNED TRAFFIC MONITORING
6 DEVICES AT A RAILROAD GRADE CROSSING WITH FLASHING SIGNALS AND
7 GATES ON A HIGHWAY OR STREET UNDER THEIR RESPECTIVE
8 JURISDICTIONS. EACH DEVICE SHALL BE SUFFICIENTLY MARKED OR IDEN-
9 TIFIED OR A SIGN SHALL BE PLACED AT THE APPROACH TO THE CROSSING
10 INDICATING THAT THE CROSSING IS MONITORED BY AN UNMANNED TRAFFIC
11 MONITORING DEVICE.

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1 (2) BEGINNING 31 DAYS AFTER THE INSTALLATION OF AN UNMANNED
2 TRAFFIC MONITORING DEVICE AT A RAILROAD GRADE CROSSING DESCRIBED
3 IN SUBSECTION (1), A PERSON IS RESPONSIBLE FOR A CIVIL INFRACTION
4 AS PROVIDED IN SECTION 667 IF THE PERSON VIOLATES A PROVISION OF
5 THAT SECTION ON THE BASIS OF EVIDENCE OBTAINED FROM AN UNMANNED
6 TRAFFIC MONITORING DEVICE. HOWEVER, FOR THE FIRST 30 DAYS AFTER
7 THE INSTALLATION OF AN UNMANNED TRAFFIC MONITORING DEVICE, A
8 PERSON SHALL BE ISSUED A WRITTEN WARNING ONLY. IT SHALL BE AN
9 AFFIRMATIVE DEFENSE TO A CHARGE OF VIOLATING SECTION 667 THAT THE
10 MECHANICAL WARNING DEVICES AT THE CROSSING WERE MALFUNCTIONING.

11 (3) A SWORN STATEMENT OF A POLICE OFFICER FROM THE STATE OR
12 LOCAL AUTHORITY HAVING JURISDICTION OVER THE HIGHWAY OR STREET
13 UPON WHICH THE RAILROAD GRADE CROSSING DESCRIBED IN
14 SUBSECTION (1) IS LOCATED, BASED UPON INSPECTION OF PHOTOGRAPHS,
15 MICROPHOTOGRAPHS, VIDEOTAPE, OR OTHER RECORDED IMAGES PRODUCED BY
16 AN UNMANNED TRAFFIC MONITORING DEVICE, SHALL BE PRIMA FACIE EVI-
17 DENCE OF THE FACTS CONTAINED THEREIN. ANY PHOTOGRAPHS, MICROPHO-
18 TOGRAPHS, VIDEOTAPE, OR OTHER RECORDED IMAGES INDICATING SUCH A
19 VIOLATION SHALL BE AVAILABLE FOR INSPECTION IN ANY PROCEEDING TO
20 ADJUDICATE THE RESPONSIBILITY FOR A VIOLATION OF SECTION 667.
21 ANY PHOTOGRAPHS, VIDEOTAPE, OR DIGITAL IMAGES EVIDENCING SUCH A
22 VIOLATION SHALL BE DESTROYED 90 DAYS AFTER FINAL DISPOSITION OF
23 THE CITATION.

24 (4) IN A PROSECUTION FOR A VIOLATION OF SECTION 667 ESTAB-
25 LISHED BY AN UNMANNED TRAFFIC MONITORING DEVICE UNDER THIS SEC-
26 TION, PRIMA FACIE EVIDENCE THAT THE VEHICLE DESCRIBED IN THE
27 CITATION ISSUED WAS OPERATED IN VIOLATION OF SECTION 667,

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1 TOGETHER WITH PROOF THAT THE DEFENDANT WAS AT THE TIME OF THE
2 VIOLATION THE REGISTERED OWNER OF THE VEHICLE, SHALL CONSTITUTE
3 IN EVIDENCE A REBUTTABLE PRESUMPTION THAT THE REGISTERED OWNER OF
4 THE VEHICLE WAS THE PERSON WHO COMMITTED THE VIOLATION. THE PRE-
5 SUMPTION MAY BE REBUTTED IF THE REGISTERED OWNER OF THE VEHICLE
6 FILES AN AFFIDAVIT BY REGULAR MAIL WITH THE CLERK OF THE COURT
7 THAT HE OR SHE WAS NOT THE OPERATOR OF THE VEHICLE AT THE TIME OF
8 THE ALLEGED VIOLATION OR TESTIFIES IN OPEN COURT UNDER OATH THAT
9 HE OR SHE WAS NOT THE OPERATOR OF THE VEHICLE AT THE TIME OF THE
10 ALLEGED VIOLATION. THE PRESUMPTION ALSO MAY BE REBUTTED IF A
11 CERTIFIED COPY OF A POLICE REPORT, SHOWING THAT THE VEHICLE HAD
12 BEEN REPORTED TO THE POLICE AS STOLEN BEFORE THE TIME OF THE
13 ALLEGED VIOLATION OF THIS SECTION, IS PRESENTED BEFORE THE
14 APPEARANCE DATE ESTABLISHED ON THE CITATION. FOR PURPOSES OF
15 THIS SUBSECTION, THE OWNER OF A LEASED OR RENTAL VEHICLE SHALL
16 PROVIDE THE NAME AND ADDRESS OF THE PERSON TO WHOM THE VEHICLE
17 WAS LEASED OR RENTED AT THE TIME OF THE VIOLATION.

18 (5) NOTWITHSTANDING SECTION 742, A CITATION FOR A VIOLATION
19 OF SECTION 667 ON THE BASIS OF EVIDENCE OBTAINED FROM AN UNMANNED
20 TRAFFIC MONITORING DEVICE MAY BE EXECUTED BY MAILING BY
21 FIRST-CLASS MAIL A COPY TO THE ADDRESS OF THE OWNER OF THE VEHI-
22 CLE AS SHOWN ON THE RECORDS OF THE SECRETARY OF STATE. IF THE
23 SUMMONED PERSON FAILS TO APPEAR ON THE DATE OF RETURN SET OUT IN
24 THE CITATION PREVIOUSLY MAILED BY FIRST-CLASS MAIL PURSUANT TO
25 THIS SUBSECTION, A COPY SHALL BE SENT BY CERTIFIED MAIL-RETURN
26 RECEIPT REQUESTED. IF THE SUMMONED PERSON FAILS TO APPEAR ON
27 EITHER OF THE DATES OF RETURN SET OUT IN THE COPIES OF THE

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1 CITATION MAILED PURSUANT TO THIS SECTION, THE CITATION SHALL BE
2 EXECUTED IN THE MANNER PROVIDED BY LAW FOR PERSONAL SERVICE. THE
3 COURT MAY ISSUE A WARRANT FOR THE ARREST OF A PERSON WHO FAILS TO
4 APPEAR WITHIN THE TIME LIMIT ESTABLISHED ON THE CITATION IF A
5 SWORN COMPLAINT IS FILED WITH THE COURT FOR THAT PURPOSE AS
6 REQUIRED FOR OTHER CIVIL INFRACTIONS UNDER SECTION 744.

7 (6) IF THERE IS A FATALITY AT A RAILROAD GRADE CROSSING IN A
8 CITY WITH POPULATION OF 60,000 OR MORE, THE STATE TRANSPORTATION
9 DEPARTMENT SHALL UNDERTAKE A DIAGNOSTIC REVIEW. THE DIAGNOSTIC
10 REVIEW SHALL BE SCHEDULED WITHIN 120 DAYS. IF THE DIAGNOSTIC
11 REVIEW CONFIRMS THAT WARNING DEVICES SUCH AS FLASHING LIGHTS AND
12 GATES ARE NEEDED, THE STATE TRANSPORTATION DEPARTMENT SHALL ORDER
13 SUCH IMPROVEMENTS. THE COST FOR THE IMPROVEMENTS SHALL BE
14 FINANCED CONSISTENT WITH THE FINANCING OF SIMILAR PROJECTS BY THE
15 STATE TRANSPORTATION DEPARTMENT ACCORDING TO ITS ANNUAL PRIORITI-
16 ZATION OF GRADE CROSSING SAFETY IMPROVEMENTS.